

BY-LAWS

WESTMORELAND MUNICIPAL PLANNING COMMISSION

WESTMORELAND, TENNESSEE

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BY-LAWS

ARTICLE I

GENERAL PROVISIONS

SECTION I OBJECTIVE

The objectives and authority of the Westmoreland Municipal Planning Commission shall be set forth in Sections 13-4-101 through 13-4-105 of the Tennessee Code and amendments and supplements thereto, and Ordinance Number 175 known as the Zoning Ordinance of Westmoreland, Tennessee.

SECTION II OFFICE OF THE PLANNING COMMISSION

The office and meeting place of the Planning Commission shall be at the Town Hall.

SECTION III RECORDS OF THE PLANNING COMMISSION

The records of the Planning Commission shall be kept at the Westmoreland City Hall and shall be available for public inspection. A records of the business conducted at the Planning Commission meetings shall be kept in a Journal of Proceedings which shall record the names of all members present or absent, the names of all persons in attendance, the business conducted and the vote or abstention of all members on any item of business on which a vote is taken.

SECTION IV

MEMBERSHIP

The membership of the Planning Commission shall consist of not less than five (5) members and not more than ten (10) members. One (1) of the members shall be the Mayor of Westmoreland or a person designated by the Mayor, and one (1) of the members shall be a member of the chief legislative body selected by that body. All other members shall be appointed by the Mayor and an effort shall be made to ensure that the minority composition of the Planning Commission is at least reflective of the municipality's racial and minority population. The terms of appointive members shall be of such length as may be specified by the chief legislative body, provided, that they shall be so arranged that the term of one (1) member shall expire each year. Members are eligible to successive re-appointment. The Mayor shall have the authority to remove any appointed member at his/her discretion. A record of the Planning Commission membership shall be kept in the Journal of Proceedings.

SECTION V

VACANCIES

Absence from fifty (50) percent of the meetings held in any one year shall be considered as a resignation. Should any vacancy occur among the members of the Planning Commission by reason of death, resignation, disability or otherwise, immediate notice thereof shall be given to the Mayor by the Secretary, and an appointive membership shall be filled for the unexpired term.

SECTION VI

TRAINING

As per Tennessee Code Sections 13-3-101(j), 13-3-201(b), 13-4-101(c), 13-7-205(c), and 13-7-206(b), also known as, Public Chapter 862, "Planning Commission And Board of Zoning Appeals Training and Continuing Education Act of 2002," four hours of training per year on the following subject matter but not limited thereto, shall be completed by each member of the Planning Commission: land use planning; zoning; flood plan management; transportation; community facilities; ethics; public utilities; wireless telecommunications facilities; parliamentary procedure; public hearing procedure; land use law; natural resources and agricultural land conservation; economic development; housing public buildings; land subdivision; and powers and duties of the Planning Commission; other topics reasonably related to the duties of

Planning Commission members or professional planners or other administrative officials whose duties include advising the Planning Commission may be approved by majority vote of the Planning Commission prior to December 31 of the year for which credit is sought.

ARTICLE II

OFFICERS, THEIR ELECTIONS AND DUTIES

SECTION I

OFFICERS

The officers of the Planning Commission shall consist of a Chair, Vice-Chair and Secretary elected by the membership at the Annual Organizational Meeting for a term of one year. Should a vacancy occur among the officers of the Planning Commission, the vacant office shall be filled immediately in accordance with SECTION III supra of these By-Laws, such officer to serve the unexpired term of the office in which such vacancy shall occur.

SECTION II

ELECTIONS

Nomination of officers shall be made from the floor and officers shall be elected at the Annual Organizational Meeting. Said elections shall be held at the first January meeting of each year. The election meeting shall be presided over by the staff representative of the Tennessee State Planning Assistance Office acting as Chair pro-tem.

The candidate for each office receiving a majority vote of the entire membership of the Planning Commission shall be declared elected

All officers shall be elected for a term of one (1) year and all officers shall be eligible to succeed themselves.

Vacancies in officers shall be filled immediately for the unexpired term by regular election procedure.

SECTION IV

DUTIES OF OFFICERS

The duties and powers of the officers of the Planning Commission shall be as follows:

Chair shall:

1. Preside at all meetings and hearings of the Planning Commission.
2. Call special meetings of the Planning Commission in accordance with these By-Laws.
3. Have the privilege of discussing all matters before the Planning Commission and to vote thereon.
4. Sign all documents of the Planning Commission such as meeting minutes. Recommendations to the City Council, letters, etc.
5. See that all actions of the Planning Commission are properly taken.
6. Have the duties normally conferred by parliamentary usage on such officer.

Vice-Chair shall:

1. During the absence, disability or disqualification of the Chair, act for him or her, including exercising or performing all the duties and be subject to all the responsibilities of the Chair.

Secretary shall:

1. Keep the minutes and records of the Planning Commission in the Journal of Proceedings.
2. Give or serve all notices required by law or by these By-Laws, including proper legal notice of hearings.
3. Prepare with the Chair, the agenda of regular and special meetings of the Planning Commission.

4. Provide notice of meetings to the Planning Commission members.
5. Be custodian of the Planning Commission records.
6. Inform the Planning Commission of correspondence relating to business of the Planning Commission and attend to such correspondence.
7. Handle any funds allocated to the Planning Commission in accordance with its directives, the law, and Town regulations.
8. Sign official documents of the Planning Commission such as Major Thoroughfare Plan, Subdivision Plats, etc.
9. Perform other duties normally carried out by a Secretary.

ARTICLE III

MEETINGS

SECTION I

ANNUAL ORGANIZATIONAL MEETING

The Annual Organizational Meeting of the Planning Commission shall be held on the first meeting in January of each year. Such meeting shall be devoted to the election of officers for the ensuing year and such other business as shall be scheduled by the Planning Commission.

SECTION II

REGULAR MEETINGS

The regular meetings of the Planning Commission shall be held on the fourth Thursday in each month at 6:30 P.M. or at such other time and date as the Planning Commission may decide, at the Town Hall or other place designated by the Chair.

All meetings at which official action is taken shall be open to the general public, and public notice in a newspaper of general circulation shall be given to the public of the date, time and place of these meetings.

All members of the Planning Commission shall be notified in writing by the Secretary of the date, time, place and agenda of each meeting no less than seven (7) days in advance of such meeting.

Items placed on the agenda shall be submitted to the Secretary no less than seventeen (17) days before the scheduled meeting. Only those items on the agenda shall be considered for official business and voting.

SECTION III QUORUM

A majority of the membership of the Planning Commission shall constitute a quorum. A quorum shall be present before any formal business is transacted.

SECTION IV VOTING

At meetings of the Planning Commission, each member attending shall be entitled to cast a vote. The voting shall be ayes and noes by roll call, and unanimous votes and abstentions shall be entered upon the record in the Journal of Proceedings. The concurring vote of the majority of those present shall be required to take the final action on any motion before the Planning Commission.

SECTION V CONFLICT OF INTEREST

Should any member of the Planning Commission consider his or her personal interest of any kind involved in any matter before the Planning Commission for a vote, it shall be his/her duty to disclose such conflict of interest and abstain from discussing and voting on the matter. The Secretary shall record in the minutes that no vote was cast by the member. The affirmative vote of the majority present shall be necessary for the adoption of any resolution or other voting matter.

SECTION VI RECOMMENDATIONS

All plans, such as comprehensive plan, road plans, etc., reports and recommendations must be approved by a majority of the total Planning Commission membership.

SECTION VII

SPECIAL MEETINGS

Special meetings may be called by the Chair. It shall be the duty of the Chair to call such a meeting when requested to do so by a majority of the members of the Planning Commission. The notice of such a meeting shall specify the purpose of such a meeting and no other business may be considered

The Secretary shall notify all members of the Planning Commission not less than five (5) days in advance of such special meetings.

ARTICLE IV

ORDER OF BUSINESS

SECTION I

RULES OF PROCEDURE

All meetings of the Planning Commission shall be conducted in accordance with Robert's Rules of Order.

Each formal action of the Planning Commission required by law, Town Charter, rule or regulation shall be embodied in a formal resolution duly entered in full upon the Journal of Proceedings after an affirmative vote as provided in SECTION IV supra.

SECTION II

ORDER OF BUSINESS

The procedural order of business at the regular meeting of the Planning Commission shall be as follows:

1. Roll Call
2. Minutes of Preceding Meeting
3. Public Hearings
4. Old Business
5. New Business
6. Report of Chair

7. Report of Town Planner
8. Comments From the Floor
9. Adjournment

ARTICLE V

COMMITTEES

SECTION I SPECIAL COMMITTEES

Special Committees may be appointed by the Chair for purposes and terms which the Planning Commission approves.

ARTICLE VI

EMPLOYEES AND EXPENDITURES

SECTION I EMPLOYEES

The Planning Commission shall have no employees. The Mayor of the Town of Westmoreland may employ such employees and staff as he or she may deem necessary for the work of the Planning Commission and may contract with planners and other consultants for such services as it may require within the Town's economic limits.

SECTION II EXPENDITURES

The expenditures of the Planning Commission exclusive of gifts, shall be within the amounts appropriated for the purpose of the Town of Westmoreland.

ARTICLE VII

HEARINGS

SECTION I PUBLIC HEARINGS AUTHORIZED

In addition to those required by law, the Planning Commission may at Its discretion hold Public Hearings when It decides that such hearings will be in the public interest.

SECTION II NOTICE OF HEARINGS

Notice of such Public Hearings shall be published in a newspaper of general circulation within the Town of Westmoreland at least fifteen (15) days prior to the date of such Public Hearing.

SECTION III CONDUCT OF PUBLIC HEARINGS

The matter before the Planning Commission for Public Hearing shall be presented in summary by the Chair or other designated member of the Planning Commission and any person desiring to be heard may be given an opportunity to speak only on the matter being considered before the Planning Commission. Public Hearings shall be for the purpose of due process and of allowing members of the Planning Commission to hear and consider the views of the public at large.

SECTION IV RECORDS OF PUBLIC HEARINGS

A record shall be kept in the Journal of Proceedings of those speaking before the Planning Commission.

ARTILCLE VIII

AMENDMENTS

SECTION I

These By-Laws may be mended by a vote constituting the majority membership of the Planning Commission providing that notice of said proposed amendment is given to each member in writing at least five (5) days prior to said meeting.

ADOPTED:

DATE

CHAIR

PLANNING COMMISSION

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I ENACTMENT	I-1
1.010 Authority	I-1
1.020 Title	I-1
1.030 Enactment	I-1
1.040 Purpose	I-2
ARTICLE II DEFINITIONS	II-1
2.010 Scope	II-1
2.020 Definitions	II-1
ARTICLE III GENERAL PROVISIONS	III-1
3.010 Scope	III-1
3.020 Only One (1) Principal Building on Any Lot	III-1
3.030 Lot Must Abut a Public Street	III-1
3.040 Rear Yard Abutting a Public Street	III-1
3.050 Corner Lots	III-1
3.060 Future Street Lines	III-2
3.070 Reduction in Lot Area Prohibited	III-2
3.080 Obstruction to Vision at Street Intersection Prohibited	III-2
3.090 Access Control	III-2
3.100 Accessory Use Regulations	III-3
3.110 Buffer Strips	III-3
3.120 Standards for Telephone, Telegraph, and Communications Transmitter Stations and Towers	III-3
3.130 Requirements Governing Adult Oriented Establishments	III-4
ARTICLE IV SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC DISTRICTS	IV-1
4.010 Off-Street Parking Requirements	IV-1
4.020 Off-Street Loading and Unloading Requirements	IV-3
4.030 Temporary Use Regulations	IV-4
4.040 Customary Incidental Home Occupations	IV-4
4.050 Gasoline Service Station Restrictions	IV-5
4.60 Standards for Signs, Billboards, & Other Advertising Structures	IV-5
4.070 Development Standards for Automobile Wrecking, Junk and Salvage Yards	IV-7
4.080 Development Standards for Mobile Home Parks	IV-8
4.090 Development Standards for Multi-Family Dwellings	IV-13
4.100 Development Standards for Attached Dwellings	IV-15

TABLE OF CONTENTS (Cont'd)

	<u>Page</u>
ARTICLE V ZONING DISTRICTS	V-1
5.010 Classification of Districts	V-1
5.020 Zoning Map	V-1
5.030 Zoning District Boundaries	V-1
5.040 Zoning of Annexed Territory	V-2
5.050 Specific District Regulations	V-2
5.060 Floodplain District – Floodplain Management Regulations	V-19
ARTICLE VI EXCEPTIONS AND MODIFICATIONS	VI-1
6.010 Scope	VI-1
6.020 Nonconforming Uses and Noncomplying Buildings and Other Structures	VI-1
6.030 Exceptions to Height Limitations	VI-7
6.040 Lot of Record	VI-7
6.050 Exceptions to Front Setback Requirements	VI-8
6.060 Absolute Minimum Lot Size	VI-8
6.070 Exception to Lot Width Requirements	VI-8
ARTICLE VII ADMINISTRATION AND ENFORCEMENT	VII-1
7.010 Administration of the Ordinance	VII-1
7.020 The Enforcement Officer	VII-1
7.030 Building Permits	VII-2
7.040 Temporary Use Permits	VII-4
7.050 Certificate of Occupancy	VII-5
7.060 Procedure for Authorizing Special Exceptions	VII-5
7.070 Board of Zoning Appeals	VII-6
7.080 Variances	VII-8
7.090 Amendments to the Ordinance	VII-9
7.100 Penalties	VII-9
7.110 Remedies	VII-9
7.120 Separability	VII-10
7.130 Interpretation	VII-10
7.140 Effective Date	VII-10

AMENDMENTS

WESTMORELAND ZONING ORDINANCE

<u>DATE</u>	<u>ORDINANCE NO.</u>	<u>AMENDMENTS</u>
November 16, 1998	326	<p>Article V, Subsection 5.051.1, <u>R-1, Low-Density Residential District, E, Dimensional Regulations</u>; Amended 3, <u>Yard Requirements</u>, Minimum Side Yard, -For One and Two Story Buildings, Deleting 12 Feet and Replacing with 10 ft., and Deleting 20 Feet; and</p> <p>Under Subsection 5.051.2, <u>R-2, Medium-Density Residential District, E, Dimensional Regulations</u>, Amended 3, <u>Minimum Yard Requirements</u>, -For One and Two Story Buildings, Deleting 12 Feet and Replacing with 10 ft.</p>
August 16, 1999	336	<p>Article VI, Amended Section 6.070, <u>Exception to Lot Width Requirements</u>.</p>
November 17, 2003	358-A	<p>Amended Article IV, <u>Supplementary Provisions Applying to Specific Districts</u>, Section 4.015, <u>Requirements for Design of Parking Lots</u>, by Adding: E.</p>
September 20, 2004	364	<p>Amended Article II, Section 2.020, <u>Definitions</u>, by Adding: Adult Arcade, Adult Bookstore or Adult Video Store, Adult Cabaret or Adult Theater, Adult Entertainment, Adult Mini-Motion Picture Theater, Adult Motion Picture Theater, Adult-Oriented Establishment, Escort Service, Lewd, Massage Parlor, Obscene, Sauna, Sexual Conduct, Sexual Encounter Center, Sexual Gratification, Sexual Stimulation, Specified Anatomical Areas, Specified Sexual Activities, Specified Services</p> <p>Amended Article III, <u>General Provisions</u>, by Adding: Section 3.130, <u>Requirements Governing Adult Oriented Establishments</u></p> <p>Article V, <u>Zoning Districts</u>, Subsection 5.053.1, <u>I-1 General Industrial District, C, Uses Permitted as Special Exceptions</u>, is amended by Adding a New Number 4.</p>

Amendments (Continued)

<u>DATE</u>	<u>ORDINANCE NO.</u>	<u>AMENDMENTS</u>
June 19, 2006	374	Article V, Deleted and Replaced Subsection 5.054, Floodplain District - Floodplain Management Regulations to be - (Renumbered to 5.060 to coincide with Ordinance.)

ARTICLE I
ENACTMENT

SECTION

- 1.010 Authority
- 1.020 Title
- 1.030 Enactment
- 1.040 Purpose

1.010 AUTHORITY

An Ordinance, in pursuance of the authority granted by Sections 13-7-201 through 13-7-401, Tennessee Code, to provide for the establishment of districts within the corporate limits of the Town of Westmoreland, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes; to provide methods of administration of this Ordinance; and to prescribe penalties for the violation, thereof.

1.020 TITLE

This Ordinance shall be known as **The Zoning Ordinance of Westmoreland, Tennessee, dated, July 16, 1984, Ordinance No. 175**. The zoning map shall be referred to as the **Official Zoning Map of Westmoreland, Tennessee**, and all explanatory matter thereon is hereby adopted and made a part of this Ordinance.

1.030 ENACTMENT

WHEREAS, Section 13-7-201 through 13-7-401, of the Tennessee Code, empowers the Town to enact a zoning ordinance and to provide for its administration enforcement, and amendment, and

WHEREAS, The Westmoreland Board of Mayor and Aldermen deems it necessary, for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare of the Town to enact such an ordinance, and

WHEREAS, all the requirements of Section 13-7-201 through 13-7-401, of the Tennessee Code, with regard to the preparation of the zoning plan by the Planning Commission and subsequent action of the Board of Aldermen have been met;

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN THAT THE ZONING ORDINANCE OF WESTMORELAND, TENNESSEE, BE ENACTED INTO LAW.

1.040 **PURPOSE**

The purpose of this Ordinance is to promote the public health, safety, morals, convenience, order, prosperity and general welfare by:

- A. Enhancing the character and stability of residential, business, commercial, and industrial areas, and promoting the orderly and beneficial development of such areas;
- B. Preventing the overcrowding of land;
- C. Conserving the value of land and buildings;
- D. Minimizing traffic hazards and congestion;
- E. Preventing undue concentration of population;
- F. Providing for adequate light, air, privacy, and sanitation;
- G. Reducing hazards from fire, and other dangers;
- H. Assisting in the economic provision, utilization, and expansion of all services provided by the public sector, including, but not limited to roads, water service, recreation, schools, and emergency services;
- I. Encouraging the most appropriate uses of land; and
- J. Enhancing the natural, man-made and historical amenities of Westmoreland, Tennessee.

ARTICLE II

DEFINITIONS

SECTION

- 2.010 Scope
- 2.020 Definitions

2.010 SCOPE

For the purpose of this Ordinance and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as follows:

- A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- C. The word "shall" is mandatory.
- D. The word "may" is permissive.
- E. The words "used" or "occupied" includes the words "intended," "designed," or "arranged to be used" or "occupied."
- F. The word "lot" includes the words "plot" or "parcel."

2.020 DEFINITIONS

The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout this Ordinance. Terms not herein defined shall have their standard dictionary definitions or such as the context may imply.

ACCESS: The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

ACCESSORY BUILDING: A subordinate building, the use of which is incidental to that of a principal building and located upon the same lot therewith.

ACCESSORY USE: A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located upon the same lot therewith.

ADULT ARCADE: Any place to which the public is permitted or invited wherein coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projections, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting, describing of "specific sexual activities" or "specified anatomical areas." See definitions of SPECIFIED ANATOMICAL AREA and SPECIFIED SEXUAL ACTIVITIES. (Added by Ordinance 364, September 20, 2004)

ADULT BOOKSTORE OR ADULT THEATER: A business which offers, as its principal or predominate stock or trade, sexually oriented material, devices or paraphernalia or specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or to any class of adults. (Added by Ordinance 364, September 20, 2004)

ADULT CABARET OR ADULT THEATER: An establishment which features as a principal use of its business, entertainers and/or waiters and/or bartenders who expose to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie, or latex covering. "Adult Cabaret" includes a commercial establishment, which features entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainers. (Added by Ordinance 364, September 20, 2004)

ADULT ENTERTAINMENT: Any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities of exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers. (Added by Ordinance 364, September 20, 2004)

ADULT MINI-MOTION PICTURE THEATER: An enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "SPECIFIED SEXUAL ACTIVITIES" or "SPECIFIED ANATOMICAL AREAS" as defined in this section, for observation by patrons therein. (Added by Ordinance 364, September 20, 2004)

ADULT MOTION PICTURE THEATER: An enclosed building with a capacity of fifty (50) or more persons regularly used or presenting material having a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein, for observation by patrons therein. (Added by Ordinance 364, September 20, 2004)

ADULT-ORIENTED ESTABLISHMENT: Includes, but is not limited to, an adult bookstore, adult motion picture theater, adult mini-motion picture establishment, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, sauna, and further "ADULT-ORIENTED ESTABLISHMENT" means any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booth, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or member when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. "ADULT-ORIENTED ESTABLISHMENT" further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, escort or any other item of like import. (Added by Ordinance 364, September 20, 2004)

ADVERTISING: Includes any writing, printing, painting, display, emblem, drawing, sign, or other device designed, used or intended for advertising, whether placed on the ground, rocks, trees, tree stumps, or other natural structures or on buildings, structures, milestones, signboards, wallboard, roofboard, frames, supports, fences or other man-made structure, and any such advertising is a structure within the meaning of the word "structure" as utilized in this ordinance.

ADVERTISING SIGN OR STRUCTURE: See definition, Sign.

AGRICULTURAL USE: This includes all forms of agriculture, growing of crops in the open, dairying, grazing, the raising and maintaining of poultry and other livestock, horticulture, viticulture, floriculture, forests, and woods, provided, however, all health codes of Westmoreland, Tennessee, shall be complied with.

The feeding or disposal of community or collected garbage to animals shall not be deemed an agricultural use, nor shall commercial feed lots, the raising of fur-bearing animals, fish or minnow hatcheries, riding stables, livery or boarding stables or dog kennels be so considered.

AGRICULTURAL ACCESSORY USE: Those structures or equipment which are normally required in the operation of agricultural uses.

ALLEY: A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility and public service purposes.

ALTERATION: As applied to a building or structure, means a change or rearrangement in the structural parts, or an enlargement, whether by extending a side or by increasing its height or structural changes, other than repairs, that would affect safety. The term "alter" in its various modes and tenses and its practical forms, refers to the making of an alteration.

AREA, BUILDING: The total area taken on a horizontal plan at the main grade level, of the principal building and all necessary buildings exclusive of uncovered porches, terraces, and steps.

AUTOMOBILE WRECKING: The dismantling, storage, sale or dumping of used motor vehicles, trailers, or parts thereof.

AUTOMOBILE WRECKING, JUNK, AND SALVAGE YARDS: Any lot or place which is exposed to weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically feasible to make operative, are placed, located, or found.

AVERAGE GROUND ELEVATION: The elevation of the mean finished grade at the front of a structure.

BASEMENT: A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half (1/2) of its height is above the average ground elevations or when subdivided and used for commercial activities.

BOARD: The Westmoreland, Tennessee, Board of Zoning Appeals.

BUFFER STRIP: A greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet.

BUILDING: Any structure having a roof supported by columns or by walls, including tents, lunch wagons, dining cars, mobile homes, and similar structures whether stationary or movable.

BUILDING AREA OF A LOT: That portion of a lot bounded by the required rear yard, side yards, and the building setback line.

BUILDING, MAIN OR PRINCIPAL: A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be a main building on the lot on which it is situated.

BUILDING SETBACK LINE: A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed, except as otherwise provided.

BUILDING SETBACK LINE, FRONT: A line delineating the minimum allowable distance between the street right-of-way, or if an official future street right-of-way has been established, from that future street right-of-way line, and the front of a building on a lot. The front building setback line extends the full width of the lot and is parallel to or concentric with the street right-of-way.

BUILDING SETBACK LINE, REAR: A line delineating the minimum allowable distance between the rear property line and a building on a lot (other than for permitted accessory structures). The rear setback line extends the full width of the lot.

BUILDING SETBACK LINE, SIDE: A line delineating the minimum distance between the side property line and a building on a lot. The side setback line extends from the front building setback line to the rear building setback line.

BUSINESS AND COMMUNICATION SERVICES: The provision of services of clerical, goods brokerage, communications of a minor processing nature, including multi-copy and blueprinting services, custom printing, but excluding the printing of books, other than pamphlets and small reports.

CAMPING GROUND: A parcel of land used or intended to be used, let, or rented for occupancy by campers or for occupancy by camping trailers, tents, or movable or temporary dwellings, rooms, or sleeping quarters of any kind.

CLINIC: See Medical Facility.

CONVENIENCE SALES: The retail sale of small convenience items such as toiletries, tobacco, and magazines. The dispensing of petroleum products may be included as accessory to convenience food products retailing.

CONVENIENCE SERVICES: Services which are needed frequently or recurrently, such as barber and beauty care; and includes the operation of self-service laundromats but excludes other apparel cleaning and repair services.

COUNTRY CLUB: A chartered, nonprofit membership club, with facilities catering primarily to its membership and providing one or more of the following recreational or social amenities: golf, riding, club house, pool, tennis, dining facilities, lounge.

COVERAGE: The lot area covered by all buildings located therein, including the area covered by all overhanging roofs.

DAY NURSERY: Any place, home, or institution, which receives five (5) or more young children, conducted for cultivating the normal aptitude for exercise, play observation, initiation, and construction.

DEVELOPMENT: Any man-made change to improve or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations. Agricultural activities such as plowing or cultivating and gardening activities are not included in this definition of development.

DISTRICT: Any section or sections of the area lying within Westmoreland, Tennessee, for which the regulations governing the use, density, bulk, height, and coverage of buildings and other structures are in force.

DWELLING: A building or part thereof used as a habitation under one of the following categories:

- (a) Single-detached dwelling means a building and accessories thereto principally used, designed, or adapted for use by a single household.
- (b) Duplex dwelling means a building and accessories thereto principally used, designed, or adapted for use by two (2) households, the living quarters of each of which are completely separate.
- (c) Semi-detached dwelling means a building containing not more than two (2) dwelling units, attached at a side to not more than one other building containing not more than two (2) dwelling units separated by a party wall without openings with each building having a separate lot with dimensions meeting regulations for the district, or so located on land in the same ownership that individual lots meeting district requirements could be provided, in which case the dimensions of such land shall not be reduced below those required for provision of separate lots.
- (d) Attached dwelling means a building containing not more than two (2) dwelling units, attached at the side or sides in a series of three (3) or more buildings each containing not more than two dwelling units. At points of attachment, such buildings shall be separated from each other by fire walls extending from footings through roofs without openings which would permit the spread of fire from one (1) building to another.
- (e) Apartment dwellings means a building and accessories thereto principally used, designed, or adapted for use as occupancy by three (3) or more households each of which has separate living quarters.

- (f) Rooming house means a building and accessories thereto principally used, designed, or adapted to provide living accommodations for not more than six (6) occupants and without owner-provided cooking and dining facilities.
- (g) Boarding house means a building and accessories thereto principally used, designed, or adapted to provide living accommodations for not more than six (6) occupants and having common cooking and dining facilities.
- (h) Multi-family means a townhouse or apartment dwelling.
- (i) Prefabricated dwelling means a single detached dwelling constructed primarily off-site, designed to be transported on a flat-bed truck or trailer, provided that it is installed on a permanently enclosed concrete or masonry foundation, with sewer and water connections designed for permanent connection to municipal or on-site systems, and permanently connected to such systems. Such structures are distinguished from mobile homes as described elsewhere in this ordinance when they have a minimum gross floor area of six hundred (600) square feet and have no horizontal exterior dimensions of less than fifteen (15) feet not including porches or carports. When such a structure meets the above-stated requirements it shall qualify as a single detached dwelling.
- (j) Mobile home means a vehicular portable structure built on a permanent chassis, designed for year-round occupancy and designed to be used with or without a permanent foundation when connected to the required utilities including the plumbing, heating, and electrical contained therein, and which is capable of being moved, towed, or transported by another vehicle. Recreation vehicles and travel trailers are not included in this definition of mobile home.

ESCORT SERVICE: A person who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts: **(Added by Ordinance 364, September 20, 2004)**

- (a) "Service-Oriented Escort Bureau" is an escort service which:
 - (1) Maintains an open office at an established place of business;
 - (2) Employs or provides only escorts which possess valid permits issued under this part;
 - (3) Does not use an escort bureau runner; and
 - (4) Does not advertise that sexual conduct will be provided to a patron.
- (b) "Sexually-Oriented Escort Bureau" is an escort service which:
 - (1) Does not maintain an office;
 - (2) Employs as an employee, agent or independent contractor, or uses an escort bureau runner;

- (3) Advertise that sexual conduct will be provided, or that escorts which provide sexual conduct will be provided, referred, or introduced to a patron.
- (4) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron;
- (5) Does not deliver contracts to every patron or customer, or
- (6) Employs, contracts with a sexually oriented escort or refers or provides to a patron, a sexually oriented escort.

FAMILY: One or more persons related by blood, marriage, or adoption, or a group not all related by blood, marriage, or adoption, occupying the premises and living as a single nonprofit housekeeping unit as distinguished from a group occupying a boarding or lodging house or similar dwelling for group use. A family shall not be deemed to include domestic servants employed by said family.

FINANCIAL, CONSULTING, AND ADMINISTRATIVE: Includes the provision of financial, insurance, real estate brokerage services, as well as the provision of advice, designs, information, or consultation of a professional nature. Also includes the executive, management, administrative, and desired activities of private, profit-oriented firms, other than public utility firms. These activities do not include the storage of goods and chattels for the purpose of sale unless otherwise permitted by other provisions of this regulation.

FLOOR AREA: The sum of the gross floor area for each of the several stories under roof, measured from the exterior limits of faces of a building or structure.

FRONTAGE: All the property on one side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead ended, then all the property abutting on one side between an intersecting street and the dead end of the street.

GASOLINE SERVICE STATION: Any area of land, including structures thereon, that is utilized for the retail sale of gasoline, oil, or automobile accessories, and incidental services including facilities for lubricating, car washing and cleaning, or otherwise servicing automobiles, but not including painting or major repair.

GRADE, FINISHED: The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

HEALTH DEPARTMENT: The Sumner County Health Department.

HEIGHT OF BUILDING OR STRUCTURES: The vertical distance from the average ground elevation or finished grade at the building line, whichever is the highest, to the highest point of the building or structure.

HOME OCCUPATION: See Section 4.040.

HOSPITAL: See Medical Facilities.

JUNK YARD OR SALVAGE YARD: A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or for the sale of parts, thereof.

LEWD Inclined to, characterized by, or inciting to lust or lechery. Obscene or indecent as language, songs, etc. **(Added by Ordinance 364, September 20, 2004)**

LIGHT INDUSTRY: Is defined, for the purpose of this ordinance, on the basis of performance in terms of absence of objectionable noise, smoke, odor, dust, dirt, noxious gases, glare and heat; and of the creation of hazards to health and life by reason of fire, effects of industrial wastes, psychological effects and generation of motor vehicle traffic.

LOADING SPACE: An area ten (10) feet by forty (40) feet with a fourteen (14) foot height clearance providing for the standing, loading, or unloading of a truck or other vehicle.

LOT: A piece, plot, or parcel of land in one ownership, which may include one or more lots or record, occupied or to be occupied by one principal building and its accessory buildings, including the open spaces required under this ordinance.

LOT, AREA: The total surface land area included within lot lines.

LOT, CORNER: A lot of which at least two (2) adjoining sides abut their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than one hundred thirty-five (135) degrees.

LOT, DEPTH: The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

LOT, FRONTAGE: That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

LOT, INTERIOR: A lot other than a corner lot.

LOT, LINES: The boundary dividing a given lot from the street, an alley or adjacent lots.

LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds prior to the effective date of this zoning ordinance.

LOT, WIDTH: The width of a lot at the building setback line measured at right angles to its depth.

MARINA: A facility for the docking and servicing of boats.

MASSAGE PARLOR: An establishment or place primarily in the business of providing massage or tanning services where one or more of the employees exposes to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material. **(Added by Ordinance 364, September 20, 2004)**

MEDICAL FACILITIES:

Convalescent, Rest or Nursing Home: A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

Dental Clinic or Medical Clinic: A facility for the examination and treatment of ill and afflicted human out-patients, provided, however, that patients are not kept overnight except under emergency conditions.

Hospital: An institution providing health services primarily for human in-patient medical care for the sick or injured and including related facilities such as laboratories, out-patient facilities, emergency medical services, and staff offices which are an integral part of the facility.

Public Health Center: A facility utilized by a health unit for the provision of public health services.

MINIMUM FLOOR ELEVATION: The lowest elevation permissible for the construction, erection, or other placement of any floor, including a basement floor.

MOBILE HOME PARK: Any area, tract, site or plot of land whereupon mobile homes as herein defined are placed, located or maintained, and shall include all accessory buildings used or intended to be used as part of the equipment, thereof.

NONCONFORMING USE: A building, structure, or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is located.

NOXIOUS MATTER: Material or substance in gaseous, liquid or solid form which is capable of causing injury to living organisms, chemical reactions, or detrimental effects upon the social, economic or psychological well-being of individuals.

OBSCENE: Offensive to modesty or decency; indecently lewd; abominable; disgusting; repulsive. **(Added by Ordinance 364, September 20, 2004)**

OPEN SPACE: An area on the same lot with a main building which is open, unoccupied and unobstructed by structures from the ground to the sky, except as otherwise provided in this ordinance.

OWNER: Includes his duly authorized agent or attorney, a purchaser, devisee, fiduciary, and/or a person having a vested or contingent interest in the property in question.

PARKING LOT: An off-street facility including parking spaces, with adequate provisions for drives and aisles for maneuvering and obtaining access, and for entrance and exit.

PARKING SPACE: An off-street space available for parking one motor vehicle and having an area of not less than one hundred-sixty-two (162) square feet exclusive of passageways and driveways giving access thereto, and having access to a street or alley. Right angle parking spaces shall have minimum dimensions of nine (9) by eighteen (18) feet.

PLANNING COMMISSION: The Westmoreland Municipal Planning Commission.

PLAT: A map, plan, or layout indicating the location and boundaries of individual properties.

PRINCIPAL USE: The specific primary purpose for which land or a building is used.

PRIVATE WASTE WATER TREATMENT: Individual subsurface sewage disposal systems (i.e., septic tanks), package treatment plants or individual aeration systems employed for the collection and treatment and/or disposal of wastewater, as approved by the local health office.

PROFESSIONAL OFFICE: The office of a physician, dentist, attorney, architect, engineer, planner, accountant, or similar professions.

PUBLIC USES: Public parks, schools, and administrative, cultural, and service buildings, not including public land or buildings devoted solely to storage and maintenance of equipment and materials.

PUBLIC WASTE WATER SYSTEM: A municipal, community, or utility district sewerage treatment and disposal system of a type approved by the State Department of Conservation and Environment, and the Public Service Commission.

PUBLIC WATER: A municipal, community or utility district water treatment and distribution system of a type approved by the State Department of Conservation and Environment and the Public Service Commission.

ROADWAY: The actual road surface including necessary road shoulders and drainage facilities including ditches and curbs and gutters, which is used to transport motor vehicles.

SANITARY LANDFILL: An area or site utilized by a public or private entity for disposal of solid waste or refuse in a manner which meets the regulations imposed upon the operation and maintenance of sanitary landfill sites by the State Department of Conservation and Environment.

SAUNA: An establishment or place primarily in the business of providing a steam bath or massage service. **(Added by Ordinance 364, September 20, 2004)**

SEXUAL CONDUCT: The engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of any person for the purpose of arousing or gratifying the sexual desire of another person. **(Added by Ordinance 364, September 20, 2004)**

SEXUAL ENCOUNTER CENTER: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration: **(Added by Ordinance 364, September 20, 2004)**

- (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (b) Physical contact between male and female persons and/or persons of the same sex, when one or more of the persons exposes to view of the persons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.

SEXUAL GRATIFICATION: Means "SEXUAL CONDUCT" as defined in this ordinance. (Added by Ordinance 364, September 20, 2004)

SEXUAL STIMULATION: To excite or arouse the prurient interest or to offer or solicit acts of "SEXUAL CONDUCT" as defined in this ordinance. (Added by Ordinance 364, September 20, 2004)

SIGN, BILLBOARD, OR OTHER ADVERTISING DEVICE: Any structure or part thereof or device attached thereto, or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia, or any representation used as, or which is in the nature of, an announcement, direction, or advertisement. The word "sign" includes the word "billboard" or any other type of advertising device, but does not include the flag, pennant, or insignia of any nation, state, city, or other political unit.

Advertising Sign: A sign which directs attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than on the premises and only incidentally on the premises if at all.

Billboard: A type of advertising sign having more than one hundred (100) square feet of display surface which is either erected on the ground, or attached to or supported by a building or structure.

Business Sign: A sign which directs attention to the business or profession conducted on the premises.

Flashing Sign: Any illuminated sign, whether stationary, revolving, or rotating, which exhibits changing light or color effects, provided that revolving or rotating signs which exhibit no changing light or color effects other than those produced by revolution or rotation, shall be deemed flashing signs only if they exhibit sudden or marked changes in such light or color effects.

Ground Sign: A sign supported by a pole, uprights, or braces on the ground.

Illuminated Sign: A sign designed to give forth any artificial light or reflect such light from an artificial source.

Indirect Illumination Sign: Any illuminated non-flashing sign whose illumination is derived entirely from an external artificial source and is so arranged that no direct rays of light are projected from such artificial source into residences or streets.

Marquee Sign: A projecting sign attached to or hung from a marquee and said marquee shall be known to mean a canopy or covered structure projecting from and supported by a building, when such a canopy or covered structure extends beyond the building, building line, or property line.

Off-Premises Sign: A sign relating to a product, service, or establishment that is not on the premises on which the sign is located.

On-Premises Sign: A sign relating to a product, service, or establishment that is on the premises on which the sign is located.

Pole Sign or Banjo Sign: A type of ground sign at least ten (10) feet above the ground supported on a single post or pole, most commonly associated with gasoline service stations.

Roof Sign: A detached sign supported upon the roof or wall of a building.

Temporary Sign: Temporary signs shall include any sign, banner, pennant, valance, or advertising display constructed of wood, metal, cloth, canvas, light fabric, cardboard, wallboard, or other light material, with or without frames, where either by reason of construction, or purpose of sign is intended to be a display for a short period of time only.

Wall or Flat Sign: Any sign erected parallel to the face or on the outside wall of any building which projects out at any angle therefrom, and projects more than twelve (12) inches beyond the face of such wall.

SPECIAL EXCEPTION: A use which is specifically permitted if the owner can demonstrate to the satisfaction of the Board of Zoning Appeals that it will meet certain standards, enumerated safeguards, or qualifying conditions.

SPECIFIED ANATOMICAL AREAS: Is defined as follows: **(Added by Ordinance 364, September 20, 2004)**

- (a) Less than completely and opaquely covered:
 - (1) Human genitals;
 - (2) Pubic region;
 - (3) Buttocks; and
 - (4) Female breasts below a point immediately above the top of the areola.
- (b) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Is defined as follows: **(Added by Ordinance 364, September 20, 2004)**

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation; sexual intercourse or sodomy;
- (c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts;
- (d) Flagellation or torture in the context of a sexual relationship;
- (e) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- (f) Erotic touching, fondling or other such contact with an animal by a human being; or
- (g) Human excretion, urination, menstruation, vaginal or an irrigation as part of or in connection with any activities set forth in "a" through "f", above.

SPECIFIED SERVICES: Massage services, private dances, private modeling, acting as an "escort" as defined in this ordinance, and any other live "ADULT ENTERTAINMENT" as defined in this ordinance. **(Added by Ordinance 364, September 20, 2004)**

STORY: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building between the topmost floor and the roof which is used for human occupancy in which the floor area with eight (8) feet or more head clearance equals fifty (50) percent or more of the floor area of the next story below. Provided, it is not used as a dwelling unit, a top floor in which the floor area with eight (8) feet or more of head clearance equals less than fifty (50) percent of the floor area of the story next below shall be a "half-story." A basement shall be considered as a story if more than half of its height is above the average ground level, from which the "height of a building" is measured, or if it is used for commercial purposes.

STREET: A public roads highway, or thoroughfare which constitutes, or is designed to constitute, the main access to more than one lot, and which has been legally dedicated and accepted for public use.

STRUCTURE: Any combination of materials, including buildings, constructed or erected, the use of which requires location on the ground or attachment to anything having location on the ground, and including among other things, signs, billboards, and fences.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either: (1) before the repair or improvements; or (2) before the damage occurred. Structural improvement, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions; or (2) any alteration or restoration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

TOXIC MATERIALS: Materials (gaseous, liquid, solid, particulate) which is capable of causing injury to living organisms by chemical reaction even when present in relatively small amounts.

TRAVEL TRAILER: A vehicular, portable structure designed as a temporary dwelling for travel, recreation, and vacation uses.

TRAVEL TRAILER PARK: A plot of land designed and equipped to accommodate travel trailers for short periods of time.

USE: The purpose for which land or a building or other structure is designed, arranged or intended, or for which it is or may be occupied or maintained.

YARD: An open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to the sky except as otherwise provided in this ordinance, provided that accessory buildings may be located in a rear yard.

YARD, FRONT: The yard extending across the entire width of the lot between the nearest part of the principal building, including porches, and the front lot line.

YARD, REAR: The yard extending across the entire width of the lot between the nearest part of the principal building, including porches, and the rear lot line.

YARD, SIDE: The required space unoccupied except as herein provided, measured between the side lot line and the nearest point of the principal building, between the front yard and the rear yard.

ARTICLE III
GENERAL PROVISIONS

SECTION

- 3.010 Scope
- 3.020 Only One (1) Principal Building on Any Lot
- 3.030 Lot Must Abut a Public Street
- 3.040 Rear Yard Abutting a Public Street
- 3.050 Corner Lots
- 3.060 Future Street Lines
- 3.070 Reduction in Lot Area Prohibited
- 3.080 Obstruction to Vision at Street Intersection Prohibited
- 3.090 Access Control
- 3.100 Accessory Use Regulations
- 3.110 Buffer Strips
- 3.120 Standards for Telephone, Telegraph, and Communications
Transmitter Stations and Towers
- 3.130 Requirements Governing Adult Oriented Establishments

3.010 SCOPE

For the purpose of the Zoning Ordinance, there shall be certain general provisions which shall apply, except as specifically noted, to the Town as a whole.

3.020 ONLY ONE (1) PRINCIPAL BUILDING ON ANY LOT

Only one (1) principal building and its customary accessory buildings may hereafter be erected on any residential lot. This provision does not prohibit apartments, multi-family dwellings mobile home parks or other similar complexes.

3.030 LOT MUST ABUT A PUBLIC STREET

No building shall be issued and no building shall be erected on a lot which does not abut at least one (1) publicly approved and accepted street for a distance of at least fifty (50) feet, provided however, that lots fronting upon cul-de-sacs require frontage of only twenty-five (25) feet.

3.040 REAR YARD ABUTTING A PUBLIC STREET

When the rear yard of a lot abuts a public street, all structures built in the rear yard shall observe the same setback from the street right-of-way line, center line of the street, or property line, as required for adjacent properties which front on that street. In addition, any structure located within twenty-five (25) feet of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that street.

3.050 CORNER LOTS

The side yard setback requirements for corner lots shall be the same as the front setback requirements for the next adjacent lot fronting on the street that the side yard of the corner lot faces.

3.060 FUTURE STREET LINES

For the purpose of providing adequate space for the future widening of streets, required setbacks, or front yards shall be determined by the rights-of-way as shown on the most current official Westmoreland Major Thoroughfare Plan.

3.070 REDUCTION IN LOT AREA PROHIBITED

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that its yard, lot area per family, lot width, and building area, or other requirements of the Zoning Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

3.080 OBSTRUCTION TO VISION AT STREET INTERSECTION PROHIBITED

On a corner lot in any district within the area formed by the center lines of the intersecting or intercepting streets and a line joining points on such center lines at a distance of seventy-five (75) feet from their intersection, there shall be no obstruction to vision between the height of three and one-half (3 1/2) feet and a height of ten (10) feet above the average grade of each street at the center line, thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall.

3.090 ACCESS CONTROL

In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply:

- A. A point of access for vehicles onto a street shall not exceed thirty (30) feet in width. All points of access shall be so constructed as to provide for proper drainage.
- B. There shall be no more than two (2) points of access to any one public street for each four hundred (400) feet of lot frontage, or fraction thereof, provided, however, that lots less than one hundred (100) feet in width shall have no more than one point of access to any one public street.
- C. No point of access shall be allowed within twenty-five (25) feet of the right-of-way line of any public intersection.
- D. No curbs on town streets or right-of-way shall be cut or altered without written approval of the Westmoreland Town Building Inspector or if a state highway, a permit must also be obtained from the Tennessee Department of Transportation.
- E. Where two (2) driveways are provided for one lot frontage, the clear distance between the driveways shall not be less than twenty-five (25) feet.
- F. Cases requiring variances relative to the above provisions due to topographic limitations shall be heard and acted upon by the Board of Zoning Appeals, provided, further, that no curb cuts for off-street automobile storage or parking spaces shall be permitted where the arrangement would require that vehicles back directly onto a public street.

3.100 ACCESSORY USE REGULATIONS

The use of land, buildings, and other structures permitted in each of the districts established by this Ordinance are designed by listing the principal uses. In addition to such principal uses, accessory uses which are customarily incidental to the permitted principal uses are also permitted in each district. Each accessory use shall:

- A. Be customarily incidental to the principal use established on the same lot.
- B. Be subordinate to and serve such principal use.
- C. Be subordinate in area, intent, and purpose to such principal use.
- D. Contribute to the comfort, convenience, or necessity of users of such principal use.

3.110 BUFFER STRIPS

Where a use is established in areas zoned nonresidential which abuts at any point upon property zoned residential, the developer of said use may at the discretion of the Planning Commission or Board of Zoning Appeals be required to provide a buffer strip as defined herein at the point of abutment.

3.120 STANDARDS FOR TELEPHONE, TELEGRAPH, AND COMMUNICATIONS TRANSMITTER STATIONS AND TOWERS (Added by Ordinance ___, March ___, 1999)

All transmitter stations, including towers and operating equipment located within Westmoreland shall adhere to the following standards:

3.120.1 Developmental Requirements

- 1. All towers with a height of one hundred fifty (150) feet (from base to top) or more shall be constructed in accordance with Electronic Industries Association ("EIA") standard 222E-1996, utilizing a wind rating of ninety miles per hour (90 mph) plus ice loading for Westmoreland, Tennessee.
- 2. All towers shall be set back from all property lines and leasehold lines a distance that is equal to:
 - (a) for a guyed tower, thirty (30) percent of its maximum height, and
 - (b) for a self-supporting tower, sixty (60) percent of its maximum height.
- 3. Fencing. The entire site in either fee-simple ownership or leasehold procurement containing such tower and equipment shall be enclosed with a fence no shorter than six (6) feet in height. Access gates will be locked at all times when the site is not occupied.
- 4. Screening. Where the tower site abuts or is contiguous to any Residential District, there shall be provided a continuous, solid screening, and it shall be of such plant materials as will provide a reasonable year-round evergreen screening. Screening, as required herein, shall be not less than four (4) feet in height at the time of planting, and shall be permanently maintained by the leaseholder or owner of the subject property. (See definition of planted buffer strip for the required specifications).

3.120.2 Application Requirements

An application to develop a Transmission and Communications Tower shall include as minimum the following:

1. All site plan information cited in Section 7.030 of this Ordinance, which is deemed applicable by the Planning Commission.
2. A "Determination of No Hazard" from the Federal Aviation Administration, as well as all required Federal Communications Commission permit information.
3. The names, addresses, and telephone numbers of all owners of other Communications/Transmission Towers or Support Structures within a one-half (1/2) mile radius of the proposed new Tower site, including town-owned property.
4. An affidavit attesting to the fact that the project applicant made diligent, but unsuccessful, efforts to install or collocate the project applicant's Telecommunications Facilities on town-owned Towers or useable Antenna Support Structures located within a one-half (1/2) mile radius of the proposed Tower site.
5. An affidavit attesting to the fact that the project applicant made diligent, but unsuccessful, efforts to install or collocate the project applicant's Telecommunications Facilities on Towers or useable Antenna Support Structures owned by other persons located within a one-half (1/2) mile radius of the proposed Tower site.
6. Written technical evidence from an engineer(s) that the proposed Tower or Telecommunications Facilities cannot be installed or collocated on another person's Tower or useable Antenna Support Structures owned by other persons located within one-half (1/2) mile radius of the proposed Tower site.

3.130 REQUIREMENTS GOVERNING ADULT ORIENTED ESTABLISHMENTS **(Section Added by Ordinance 364, September 20, 2004)**

3.130.1 Intent

A basic purpose of zoning is to separate uses that are incompatible. Some categories of adult oriented uses have little if any, consequential results, while other have significant land-use impacts.

A proliferation of adult oriented establishments may lead to a negative perception of a neighborhood or the entire Town. A negative perception of this kind can lead to declining property values and physical deterioration. There is evidence that concentrations of such adult oriented establishments often result in an increase in crime, particularly prostitution, drugs, transient habitation or activity, assault and sex related crimes. Zoning is one of the primary means by which we protect that sometimes difficult to define concept of "quality of life."

3.130.2 Purpose

The provisions and criteria for the review of adult oriented establishments are established to preclude their concentration which may have a deleterious effect upon the use and

enjoyment of adjacent protected areas. Because of their operational characteristics, special regulations ensure that these adverse effects will not contribute to blighting or downgrading the surrounding neighborhoods. These special regulations are itemized in this section.

The primary regulation purposes to prevent a concentration of adult oriented establishment uses in one area, and of providing a buffer zone between such businesses and surrounding properties. The regulations have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative adult oriented materials. It is neither the intent nor effect of these regulations to restrict or deny access by adults to adult oriented materials protected by the First Amendment to the United States Constitution, or to deny access by the distributors and exhibitors of adult oriented entertainment to their intended market.

A. Criteria for Review

1. No establishment shall be located within two thousand (2,000) feet (measured from property to property line) of another adult oriented establishment.
2. No such business shall be located within three thousand (3,000) feet (measured from property line to property line) of any educational, child or child-care, cultural, religious, library, health care, or recreational activities including pool or billiard halls, government buildings, parks and commercial malls.
3. No such establishment shall be located within two thousand (2,000) feet (measured from property line to property line) of a boundary of a residential district (R-1; R-2; R-3), or a lot devoted to residential use.
4. No such business shall be located within two thousand (2,000) feet (measured from property line to property line) of a commercial district (C-1, C-2).
5. The determined distances are spacing requirements and are not subject to variances by the Board of Zoning Appeals.
6. A duly publicized Public Hearing shall be held on the application. A duly publicized Public Hearing is one having met the minimum fifteen (15) day advertisement requirement in a newspaper of general circulation and paid for by the applicant.
7. A two-thirds (2/3) majority approval of the full Westmoreland Town Council sitting at a regularly scheduled meeting shall be required for final approval.
8. Sign and advertising shall be regulated as per Article IV, Section 4.060, Standards for Signs, Billboards and Other Advertising Structures, and in addition,
9. Sign messages shall be limited to non-lewd verbal description of material or services provided on the premises and may not include any graphic or pictorial depiction of material or services rendered on the premises.

10. Messages or signs which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display materials, items, publications, pictures, films, or live presentation of services or persons performing services offered on the premises.
11. Only one (1), sixteen (16) square foot (e.g., 4 x 4; 2 x 8) sign on the structure is permissible.
12. Only one (1) fluorescent light on the sign is permissible.
13. Neon signs and billboards are prohibited on the structure or on the premises (lot on which the establishment is located), as per Article IV, Section 4.060.
14. Free standing illuminated signs on the premises (lot on which the establishment is located) are prohibited.
15. Intermittent illumination or flashing signs on the structure or the premises (lot on which the establishment is located) are prohibited.

B. Planning Commission Approval Required

No building permit for construction of any building or the alteration of the exterior of any building or the addition to the original building shall be issued until after the plan for such construction, alteration or addition has been submitted to the Planning Commission for approval or disapproval. Such plan shall show the proposed site development and a plan relative to building site, design and landscaping treatment; access; on-site traffic circulation; maneuvering and parking spaces as per Article III, Sections 3.080, Obstruction to Vision at Street Intersection Prohibited and 3.090, Access Control and Article IV, Section 4.010, Off-Street Parking Requirements; Section 4.020, Off-Street Loading and Unloading Requirements.

C. Landscaping Provision

Each site shall be developed with not less than twenty (20) percent of its total area landscaped with a combined arrangement of trees, green shrubbery, grass, and/or other planting exclusive of landscaping in parking areas. Buffering on all sides excluding the side fronting the public road for ingress and egress of the lot, shall be installed consisting of view impairing perennial bushes measuring six (6) feet at maturity. Solid waste storage and disposal areas shall be screened from public view and shall be maintained in compliance with the Sumner County Health Department regulations. Ground level electrical transformers, air conditioning equipment and similar facilities shall be screened from public view. The landscaping provisions to this section may be varied or reduced if the proposed landscaping plan provides for unique and innovative landscaping treatment that, in the opinion of the Planning Commission meets the intent and purpose of this section.

D. Building and Site Design

1. All building and site design, including those to alterations, additions and remodeling are subject to review and approval of the Planning Commission.
2. Accessory building, markings, and enclosures shall be consistent in design and quality of materials used with the building to which they are accessories.

E. Additional Regulations

1. Debris and Waste: No cut trees, lumber, debris, junk, rubbish or other waste material of any kind shall be buried in any land or deposited on any lot or public way at the time of the issuance of a certificate of occupancy for the lot; and the removal of such waste shall be required prior to the issuance of any certificate of occupancy.

At all times, the lot housing the adult oriented establishment shall be kept clean and clear of any cut trees, lumber, debris, junk, rubbish or other waste material of any kind.

ARTICLE IV

SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC DISTRICTS

SECTION

- 4.010 Off-Street Parking Requirements
- 4.020 Off-Street Loading and Unloading Requirements
- 4.030 Temporary Use Regulations
- 4.040 Customary Incidental Home Occupations
- 4.050 Gasoline Service Station Restrictions
- 4.060 Standards for Signs, Billboards, and Other Advertising Structures
- 4.070 Development Standards for Automobile Wrecking, Junk and Salvage Yards
- 4.080 Development Standards for Mobile Home Parks
- 4.090 Development Standards for Multi-Family Dwellings
- 4.100 Development Standards for Attached Dwellings

4.010 OFF-STREET PARKING REQUIREMENTS

Off-street automobile storage or standing space shall be provided on each lot upon which any of the following uses are hereafter established. One (1) vehicle space shall be (9 feet x 18 feet in size) and such space shall be provided with vehicular access to a street or alley. The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below:

- A. Single-Detached Dwelling and Duplex: Not less than two (2) spaces for each dwelling unit.
- B. Apartment Dwelling: Not less than one and one-half (1 1/2) spaces per dwelling unit.
- C. Boarding Houses and Rooming Houses: Not less than one (1) space for each (1) room to be rented.
- D. Semi-Detached and Attached Dwelling: Not less than two (2) spaces per dwelling unit.
- E. Other Dwelling Units: Not less than two (2) spaces per dwelling unit.
- F. Hotels, Motels and Other Tourist Accommodations: Not less than one (1) space for each room to be rented plus one (1) additional space for each three (3) employees.
- G. Any Auditorium, Church, Stadium, or Other Place of Public Assembly: Not less than one (1) space for each four (4) seats provided in such places of assembly. For all places of public assembly where seating is not a measure of capacity, such as clubhouses, funeral parlors, etc., at least one (1) space for each two hundred (200) square feet of floor space devoted to that particular use shall be provided.

- H. **Manufacturing, Industrial or Wholesaling Use:** Not less than one (1) space for each five (5) employees anticipated during maximum production, with a minimum of five (5) spaces provided for any establishment. For establishments maintaining space for the sale of products at retail, there shall be provided one (1) parking space for each five hundred (500) square feet of floor area devoted to retail sales.
- I. **Office and Professional Buildings:** Not less than one (1) parking space for each three hundred (300) square feet of office space located on the first floor, plus one parking space for each five hundred (500) square feet of floor space (or fraction thereof) above or below the first or main floor; provided that office space constructed or arranged on the floors above or below the first floors of retail or other business establishments and not used in connection therewith, shall fall within the meaning of this subsection.
- J. **Retail Sales and Service Establishments:** Not less than one (1) parking space for each two hundred and fifty (250) square feet, or fraction thereof, of floor space.
- K. **Medical or Dental Clinic:** Not less than four (4) spaces per doctor, plus one (1) additional space for each two (2) employees.
- L. **Service Stations:** Not less than five (5) spaces for grease rack or service bay, or one (1) space for each fourteen hundred (1,400) square feet of lot area or fraction thereof, whichever is greater.
- M. **Restaurants:** Not less than one (1) space per one hundred fifty (150) square feet of floor area, plus one (1) space for each two (2) employees. For drive-in restaurants, one (1) space per one hundred (100) square feet of floor area.
- N. **Other:** For buildings and uses not listed, the off-street parking requirements shall be determined by the Board of Zoning Appeals.

4.011 Certification of Minimum Parking Requirements

Each application for a building permit shall include information as to the location and dimensions of off-street parking spaces and the means of ingress and egress to such spaces. This information shall be in sufficient detail to enable the Building Inspector to determine whether or not the requirements of this section to be are met.

4.012 Combination of Required Parking Space

The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

4.013 Remote Parking Spaces

If the off-street parking spaces required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within four hundred (400) feet of the main entrance to such principal use, provided such land is in the same ownership or lease as the principal use. Such land shall be used for no other purpose so long as no other adequate provision of parking space, meeting the requirements of this Ordinance, has been made for the principal use.

4.014 Extension of Parking Area into a Residential District

Required parking space may be extended one hundred (100) feet into a residential district, provided that:

- A. The parking area adjoins a commercial or industrial district.
- B. The parking spaces in this area have their only access to or front upon the same street as the property in the commercial or industrial districts for which it provides the required parking spaces.
- C. The parking space is separated from abutting properties in the residential districts by a buffer strip.

4.015 Requirements for Design of Parking Lots

- A. Except for parcels of land devoted to one- and two-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back onto a public street to obtain egress.
- B. Each parking space shall be no less than nine feet x eighteen feet (9' x 18') in size.
- C. Entrances and exits for all off-street parking lots shall comply with the requirements of Section 3.090, of this Ordinance.
- D. The parking lot shall be designed in such a manner as to provide adequate drainage and to eliminate the possibility of stagnant pools of water.
- E. All off-street parking areas shall be surfaced with asphalt or concrete material and so constructed to provide for adequate drainage for both on and off-site areas and to prevent the release of dust. In no case shall drainage be allowed to cross sidewalks.
(Added by Ordinance 358-A, November 17, 2003)

4.020 OFF-STREET LOADING AND UNLOADING REQUIREMENTS

Every building or structure hereafter constructed and used for industry, business or trade involving the receiving or distribution of vehicles, materials, or merchandise shall provide space for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public or private alley, or if there is no alley, to a public street. The minimum required spaces for this provision shall be based on the total usable floor area of each principal building according to the following table:

<u>Total Usable Floor Area for Principal Building</u>	<u>Spaces Required (See ARTICLE II, for Definition)</u>
0 to 4,999 square feet	One (1) space
5,000 to 20,000 square feet	Two (2) spaces
Over 20,000 square feet	One (1) space for each additional 20,000 square feet

The Board of Zoning Appeals may reduce or increase this requirement in the interest of safety where unusual or special conditions are due consideration.

4.030 TEMPORARY USE REGULATIONS

The following regulations are necessary to govern the operation of certain necessary or seasonal uses, nonpermanent in nature. Application for a Temporary Use Permit shall be made to the Building Inspector. Said application shall contain a graphic description of the property to be utilized and a site plan, a description of the proposed use, and sufficient information to determine yard requirements, setbacks, sanitary facilities, and parking space for the proposed temporary use. The following use are deemed to be temporary uses and shall be subject to the specific regulations of any district in which such use is located:

- A. **Carnival or Circus:** May obtain a Temporary Use Permit in the C-1, C-2, or I-1 Districts; however, such permit shall be issued for a period of not longer than fifteen (15) days. Such use shall only be permitted on lots where adequate off-street parking can be provided.
- B. **Christmas Tree Sale:** May obtain a thirty (30) day Temporary Use Permit for the display and sale of Christmas trees on open lots in any district.
- C. **Temporary Buildings:** In any district, a Temporary Use Permit may be issued for contractor's temporary office and equipment sheds incidental to construction project. Such permit shall not be valid for more than one (1) year, but may be renewed for one (1) year extensions; however, not more than three (3) extensions for a particular use shall be granted. Such use shall be removed immediately upon completion of the construction project, or upon expiration of the Temporary Use Permit, whichever occurs sooner.
- D. **Religious Tent Meetings:** In any district, a Temporary Use Permit may be issued for a tent or other temporary structure to house a religious meeting. Such permit shall be issued for not more than a thirty (30) day period. Such activity shall be permitted only on lots where adequate off-street parking can be provided.
- E. **Temporary Dwelling Unit in Cases of Special Hardship:** In any residential district, a Temporary Use Permit may be issued to place a mobile home temporarily on a lot in which the principal structure was destroyed by fire, explosion or natural phenomena. The purpose of such placement shall be to temporarily provide shelter for only the residents of the principal structure during the period of reconstruction and to prevent an exceptional hardship on the same. Placement of such temporary structure must not represent a hazard to the safety, health, or welfare of the community. An applicant for a Temporary Use Permit as provided under this subsection must produce a written statement from the Westmoreland Utilities System, and the Sumner County Health Department approving the water supply, sewage disposal and electrical systems of the temporary structure. Such a permit may be initially issued for nine (9) months. A permit may be renewed for up to six (6) months at a time, the total time for all permits not exceeding a total of twenty-one (21) months.

4.040 CUSTOMARY INCIDENTAL HOME OCCUPATIONS

A customary incidental home occupation is a gainful occupation or profession (including the professional office of an architect, artist, dentist, engineer, lawyer, physician and the like, barber, beauty and tailor shops) or the accommodation of not more than two (2) boarders conducted by

- g. Small unilluminated signs, not exceeding one and one-half (1 1/2) square feet in area, displayed strictly for the direction, safety, and convenience of the public, including signs which identify rest rooms, freight entrances and the like.

B. In all Residential Districts, the Following Regulations Shall Apply:

1. Nameplates indicating name, address, house number, announcement of boarders or roomers, or customary home occupations are permitted.
2. For multi-family dwellings and mobile home parks, identification signs not exceeding sixteen (16) square feet in area are permitted.
3. Church, school, or public building bulletin boards or identification signs, not exceeding twenty (20) square feet in area are permitted.
4. Flashing or intermittent illumination is prohibited.
5. Billboards and other advertising structures are prohibited.

C. In all Commercial District, the Following Regulations Shall Apply:

1. Bulletin boards or identification signs, not exceeding sixty (60) square feet in area, shall be permitted for public recreation uses, community facilities, hospitals, and clinics.
2. Business signs shall be permitted subject only to the restrictions in Section 4.060, A, of this Ordinance. All ground signs shall be located within the property line.
3. For other permitted uses, one business sign not exceeding one (1) square foot of surface for each two (2) lineal feet of lot fronting on a public street, will be permitted. Such sign shall be directly related to the activity conducted on said premises.
4. Billboards and other outdoor advertising structures are permitted, subject to the general restrictions set forth in Section 4.060, A.

D. In all Industrial Districts, the Following Regulations Shall Apply:

1. Business signs shall be permitted (which relate to the business) on the premises. Such signs shall be located not closer than one-half (1/2) the required building setback from all property lines.
2. Flashing or intermittent illumination is prohibited.
3. Billboards and outdoor advertising structures are permitted.

4.070 DEVELOPMENT STANDARDS FOR AUTOMOBILE WRECKING, JUNK AND SALVAGE YARDS

Because of the nature and character of their operations, automobile wrecking and salvage yards, junk yards, and similar uses of land can have a decidedly detrimental effect upon surrounding properties.

members of a family residing on the premises or only one person in addition to those persons residing therein and conducted entirely within the principal dwelling unit. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling, and no alteration to any building indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. An announcement sign of not more than four (4) square feet in area is permitted.

When questions arise regarding the legality of specific home occupations, the Board of Zoning Appeals shall determine in which zone said home occupation is in compliance with the district in which said home occupation is located. However, activities such as dancing instruction, band instrument instruction, except piano instruction, tea rooms, tourist homes, real estate offices, convalescent homes, mortuaries, animal clinics, retail sales business, or any other activity deemed by the Board to be incompatible with the district or a potential nuisance to the surrounding area shall not constitute an acceptable home occupation.

4.050 GASOLINE SERVICE STATION RESTRICTIONS

The following regulations shall apply to all gasoline service stations:

- A. There shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet, except for canopies designed to cover the gasoline pump islands.
- B. Gasoline pumps shall not be located closer than fifteen (15) feet to any street right-of-way line.
- C. Sign requirements as established in Article IV, Section 4.060, shall be met.

4.060 STANDARDS FOR SIGNS, BILLBOARDS, AND OTHER ADVERTISING STRUCTURES

These conditions are established as a reasonable and impartial method of regulations advertising structures in order to insure light, air, and open space, to reduce hazards at intersections, and to protect property values of the entire community. The regulations for signs, billboards, and other advertising structures are enumerated below:

- A. In any zoning district, the following general regulations shall apply as well as the regulations in Chapter 23, "Sign and Outdoor Displays," of the Standard Building Code:
 - 1. No sign shall be erected or maintained where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any authorized traffic control sign, signal, device, or emergency vehicle.
 - 2. No illuminated sign shall be permitted within fifty (50) feet of property in any residential district unless the illumination of such sign is so designed that it does not shine or reflect light onto such property.
 - 3. No billboard or ground sign shall be erected to exceed the maximum height limitation for the district in which it is located. No billboard shall exceed fifty (50) feet in length.

4. Billboards shall be erected or placed in conformity with the side, front, and rear yard requirements of the district in which located. However, no billboard shall be erected or placed closer than within one hundred (100) feet of any Residential District.
5. On the premises outdoor advertising signs, including flashing or intermittent illumination, shall be a minimum of ten (10) feet from the public right-of-way.
6. Signs erected and overhanging any sidewalk must be placed at least nine (9) feet above the sidewalk and may extend over the sidewalk a distance equal to two-thirds (2/3) the width of the sidewalk, but in no case exceeding ten (10) feet.
7. Professional signs and signs for home occupations shall not exceed four (4) square feet in area in the Residential Districts.
8. Temporary Signs and Posters Are Subject to the Following Regulations:
 - a. Each sign shall not exceed five (5) square feet in area, excluding banners.
 - b. The signs shall not be located closer together than five hundred (500) feet.
 - c. Such signs shall not be nailed to trees, fence posts or public utility poles and shall not be located in the public right-of-way, excluding banners.
9. In Any District, the Following Signs Shall Be Permitted:
 - a. For parking areas, entrance and exit signs not exceeding four (4) square feet in area and not more than one (1) sign not more than sixteen (16) square feet in area identifying or designating the conditions of the use of such parking area.
 - b. Nonilluminated "For Sale" or "For Rent" signs not exceeding four (4) square feet in area.
 - c. One (1) sign not more than sixteen (16) square feet in area giving the names of the contractors, engineers, or architects, during construction of a building.
 - d. Signs established by, or by order of, any governmental agency.
 - e. For special events of public interest, one (1) sign not over thirty-two (32) square feet in area.
 - f. Flags or emblems of political, civic, philanthropic, educational or religious organizations.

Salvage and wrecking yards tend to create problems of noise, dust, traffic, and health hazards, and may adversely affect property value by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlines above, will have properly minimized their objectionable characteristics:

- A. All motor vehicles stored or kept in such yards shall be so kept that they shall not catch and hold water in which mosquitoes may breed and so that they shall not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.
- B. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than three hundred (300) feet from any established residential zone.
- C. All outdoor storage of salvage and wrecking operations shall be conducted entirely within and enclosed opaque fence, screen, or wall, excepting driveway areas, from eight (8) to twelve (12) feet in height. Storage between the road or street and such fence, screen or wall is expressly prohibited. Any fence, screen, or wall for concealment shall be maintained in good condition.
- D. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to public health or safety.
- E. Off-Street Parking: As regulated in Article IV, Section 4.010.
- F. Ingress and Egress: The number of vehicular access driveways permitted on any single street frontage shall be limited to:
 - 1. One (1) driveway where the parcel to be used has a maximum road or street frontage of one hundred (100) feet or less.
 - 2. Two (2) driveways where the road or street frontage exceeds one hundred (100) feet. Driveways used for ingress and egress shall be limited to twenty-five (25) feet in width maximum, exclusive of curb returns.
- G. Application for Automobile Wrecking, Junk, or Salvage Yard Permit: No person shall own or maintain an automobile wrecking, junk, or salvage yard within Westmoreland until he has secured a permit from the Westmoreland Board of Zoning Appeals. An application for said permit shall be filed in accordance with the requirements of Article VII, Section 7.060, of this Ordinance, and shall be accompanied by a detailed site plan, a schedule for construction, and any other information as herein required. Said application shall be submitted along with any plans and schedules. The Board shall vote to approve or disapprove the application in accordance with the time schedule set forth in Section 7.060.

4.080 DEVELOPMENT STANDARDS FOR MOBILE HOME PARKS

The establishment of these provisions is intended to supplement the State Health Regulations, established by the "Tennessee Trailer Court Act of 1957", Section 53-3201 through 53-3220, Tennessee Code Annotated, by ensuring a minimum standard of site development for mobile home

parks where permitted as a conditional use within a zoning district. It is intended that within any zoning district where permitted, mobile home parks shall be excluded from certain regulations relating to uses other than mobile home parks but that such use shall be subject to the general provisions of the district with regard to the uses permitted within the zoning district in which such use is located. Additionally, it is intended that in any instance of a conflict between the provisions of these regulations and the general provisions of the district as they relate to mobile home parks, these regulations shall apply.

A. Permit

1. Application for Permits

The application for a "mobile home park permit" shall be filed with and issued by the Sumner County Health Department as authorized by Section 53-3203, of the Tennessee Code Annotated. However, the construction or extension of a mobile home park may not commence until a Zoning Permit has been issued for a mobile home park.

2. Site Plan Required

A Zoning Permit may only be issued for construction or extension of a mobile home park upon submission and approval by both the Planning Commission and the Board of Appeals of a site development plan meeting the minimum requirements of Section 7.030, A, 2.

B. Development Standards

1. General

A mobile home park shall be located only as a special exception within those districts where permitted.

No part of the park shall be used for nonresidential purposes, except such uses as are required for the direct servicing and well being of park residents and for the management and maintenance of the park.

Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to accessive smoke, dust, and noise. No portion of a mobile home lot or stand shall be subject to flooding.

2. Minimum Development Size

No mobile home park shall be approved on site which contains less than twice the minimum lot area for the district in which the use is to be located.

3. Density

The number of mobile homes permitted within any mobile home park shall be determined as follows:

- (a) From the gross acreage located within the site of the mobile home park shall be subtracted:
 - (1) Any portion subject to flooding (taking in to account any filling permitted);
 - (2) Ten (10) percent of the remainder for streets.
- (b) The remaining acreage shall then be divided by sixty-five hundred (6,500) square feet. The result indicates the maximum number of mobile homes permitted on the site.

4. Yards

Along the entire periphery of a mobile home park, yards meeting the basic district regulations shall be provided. Within the interior portion of a mobile home park, no yards, except as required to meet other provisions set forth in this section, are required.

5. Spacing of Mobile Homes and Site Coverage

Mobile homes shall be so harbored on each space that there shall be at least a twenty-five (25) foot clearance between mobile homes; for mobile homes parked end-to-end, the end-to-end clearance may be less than twenty-five (25) feet, but not less than fifteen (15) feet.

There shall be a minimum distance of ten (10) feet between the nearest edge of any mobile home and an abutting access street.

Mobile home stands shall not occupy an area in excess of twenty-five (25) percent of the respective lot area. The total area occupied by the mobile home and its accessory structures shall not exceed fifty (50) percent of the respective lot area.

6. The Mobile Home Lot

The limits of each mobile home lot shall be marked on the ground by suitable means. Location of lot limits on the ground shall be the same as shown on accepted plans.

7. Mobile Home Stands

The mobile home stands shall be improved to provide adequate support for the placement and tie-down of the mobile home. The stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure. In addition, such stand shall comply with the publication of FHA "Minimum Property Standards for Mobile Home Parks", **May, 1977**, as amended.

8. Outdoor Living Area

Each mobile home lot shall be provided with an outdoor living and service area. Such area shall be improved as necessary to assure reasonable privacy and comfort. The minimum area shall be not less than three hundred (300) square feet with a minimum dimension of fifteen (15) feet.

C. Utilities and Other Services

1. Water Supply and Distribution System

Each mobile home park shall be served with a public water supply. Adequate fire protection shall be provided within each mobile home park.

2. Sewage Disposal

Each mobile home park shall be served by either public sewer or a system approved by the Sumner County Health Department.

3. Solid Waste Disposal System

Solid waste collection stands shall be provided for waste containers. Such stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.

4. Service Buildings

Service buildings, housing sanitation and laundry facilities, shall be permanent structures complying with all applicable ordinances and statutes regulating, buildings, electrical installations, and plumbing and sanitation systems.

D. Streets

1. General

All mobile home developments shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Such access shall be provided by streets, driveways, or other means.

2. Entrance Streets

Entrances to mobile home developments shall have direct connections to a public street and shall be designed to allow free movement to traffic on such adjacent public streets. No parking shall be permitted on the entrance street for a distance of one hundred (100) feet from its point of beginning.

3. Circulation

The street system should provide convenient circulation by means of minor streets and properly located collector streets. Dead-end streets shall be limited in length to one thousand (1,000) feet and their closed end shall be provided with an adequate turnaround.

4. Street Widths

One way with No Parking	12 feet
Two way with No Parking	20 feet

If parking is to be on street, a width of eight (8) feet is to be provided for each parking lane in addition to the street width shown above.

5. Surfacing Required

Streets are to be surfaced with a base of stone of a compacted depth of four (4) inches.

6. Visibility at Intersections

Visibility at intersections of streets shall be as set forth in Section 3.080, of this Ordinance.

E. Walks

1. General Requirements

All mobile home developments shall be provided with safe, convenient, all-season pedestrian accesses of adequate width for intended use. Sudden changes in alignment and gradient shall be avoided.

2. Common Walk System

A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three (3) feet.

3. Individual Walks

All mobile home stands shall be connected to common walks, streets, driveways and parking spaces by individual walks. Such individual walks shall have a minimum width of two (2) feet.

F. Recreation Area

Adequate recreation facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units. Attractive outdoor sitting areas shall be provided, appropriate in size, type and number to the needs of the residents.

Well-equipped playgrounds of adequate size and number shall be provided, where it is anticipated that children will occupy the premises.

G. Buffer and Screening

A landscape buffer shall be provided along the perimeter of the site boundaries not less than fifteen (15) feet in width, except that a minimum buffer area from any public street shall be no less than twenty (20) feet.

Within the landscaped buffer, a continuous fence six (6) to eight (8) feet high or landscaped screen shall be provided. Such fence shall be opaque and such screening shall be a year-round evergreen four (4) feet wide and at least four (4) feet high at the time of planting and expected to achieve a height of six (6) feet within three (3) years. No landscaped screen or fence shall be provided within fifteen (15) feet of any vehicular entrance and/or exit to the park.

H. Site Design

The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectionable features. The planting plan shall be submitted with the site development plan.

Existing trees, shrubs, evergreens and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.

I. Off-Street Parking

Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwelling units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit the space is to serve.

4.090 DEVELOPMENT STANDARDS FOR MULTI-FAMILY DWELLINGS

The special provisions set forth herein are intended to provide design criteria for multi-family dwellings located on a single zone lot. It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by Planning Commission review of the site plan required for all such development by Section 7.030, A, 2.

A. Design Criteria

The design criteria appearing below apply to all multi-family developments.

1. General

- (a) Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walks, and landscaping shall be provided for the protection and aesthetic enhancement of the development and privacy of the occupants, screening of objectionable views or uses and the reduction of noise.
- (b) Street sidewalks and on-site walks shall be provided for convenient and safe access to all living units from streets, driveways, parking courts, or garages and for convenient circulation and access to all facilities.

- (c) The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings, and grounds and to screen out objectionable features. The planting plan shall be submitted with the site development plan.
- (d) Existing trees, shrubs, evergreens, and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.
- (e) Adequate recreation facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units.
- (f) Attractive outdoor sitting areas shall be provided, appropriate in size, type, and number to the needs of the residents.
- (g) Well equipped playgrounds of adequate size and number shall be provided, where it is anticipated that children will occupy the premises.
- (h) All public streets located within any multi-family development shall meet the construction specifications set forth in the subdivision regulations.
- (i) The density, or number of dwelling units permitted within a given area, shall be as provided by the basic district regulations.
- (j) All dwelling units shall be so positioned as to assure the availability of adequate fire protection. The Fire Department shall adjudge the adequacy of protection.

2. Building Spacing

(a) Minimum Building Spacing

Space between buildings shall be one-half ($1/2$) of the sum of the heights of the buildings, but in no case shall the distance be less than twenty (20) feet.

(b) Minimum Distance to the Property Line

The minimum distance between the building and the property line shall be one-half ($1/2$) the height of the building, but in no case shall be less than twenty (20) feet.

3. Perimeter Requirements

If topographical or other barriers do not provide adequate privacy for existing uses adjacent to the proposed development, the Planning Commission may impose either of the following requirements:

- (a) Structures located on the perimeter of the proposed development must be set back by a distance sufficient to protect the privacy and amenity of adjacent existing uses, if applicable.
- (b) Structures located on the perimeter of the proposed development must be permanently screened in a manner which is sufficient to protect the privacy and amenity of adjacent existing uses. Such screening should be suitably landscaped with grass and/or ground cover, shrubs, and trees.

4. Access

Each multi-family dwelling shall be so located as to have direct access to a public street or to a private street approved for the dwelling. All structures shall be so located as to provide safe and convenient access for servicing, emergency access by fire, and other public safety vehicles, refuse collection and for required off-street parking.

5. Parking

(a) Space Requirements

As regulated in Article IV, Section 4.010.

(b) Grouped Parking Facilities

Off- street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwelling units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit it is to serve. Where appropriate, common driveways, parking areas, walks and steps shall be maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges, and screening walls.

Any private drives, parking areas, or other vehicular ways used for common access for two (2) or more residents will be suitably paved and maintained as a condition of approval of the project.

6. Density and Minimum Lot Area

The number of dwelling units permitted shall not exceed twelve (12) per gross acre. A minimum development site of twenty four thousand (24,000) square feet is required for any multi-family complex.

4.100 DEVELOPMENT STANDARDS FOR ATTACHED DWELLINGS

The provisions set forth herein are intended to apply to all attached dwellings, as defined by this Ordinance, whether such units are popularly described as town houses, atrium houses, or by any other name. The specific provisions appearing below shall apply to all attached dwellings regardless of the district in which such may be located.

A. Design Criteria, General

It is intended that attached dwellings where they are permitted:

1. May be appropriately intermingles with other types of housing;
2. Shall not form long, unbroken lines of row housing; and
3. Shall constitute groupings making efficient economical, comfortable, convenient use of land and open space, and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildable areas.

B. Design Criteria, Details

1. The density, or number of dwelling units permitted within a given areas, shall not exceed eight (8) unit per gross acre.
2. The minimum lot for any attached dwelling shall not be less than twenty four hundred (2,400) square feet.
3. The minimum development site required for construction of any detached dwelling is twenty four thousand (24,000) square feet.
4. The maximum lot coverage ratio set forth for the district may be exceeded for a given lot within a development of attached dwellings. However, such ratio shall apply to the project when considered in aggregate (i.e. total building coverage divided by total gross development site area). In any instance where a development may lie within two or more zoning districts the coverage ratio for each district shall apply to all development within it. No transfer of bulk or site coverage shall be permitted among zoning districts.
5. Minimum width for the portion of the lot on which an attached dwelling is to be constructed shall be twenty-two (22) feet.
6. Not more than six (6) contiguous dwelling shall be built in a row with the same or approximately the same front line, and not more than twelve (12) dwellings shall be contiguous.
7. For dwellings which are attached at both sides to other dwellings no side yard as such is required. However, each such unit shall on its own lot have one yard containing not less than five hundred (500) square feet. This yard shall be reasonably secluded from view of streets or from neighboring property and shall not be used for off-street parking or for any accessory buildings.

C. Open Space Requirements

1. Amount of Open Space Required

In general, the amount of common open space provided shall be equal to that portion of the site not utilized for lots, individually held parking areas and streets (either public or private).

2. Quality and Improvement of Common Open Space

No open area may be accepted as common open space under the provisions of this Section unless the location, shape, size, and character of the common open space is appropriate to the scale and character of the development considering its size, density, expected population, topography, and the number and type of dwellings to be provided.

Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. Any buildings, structures, and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space having regard to its topography and unimproved condition.

If the site development plan provides for buildings, structures, and improvements, in the common open space of a value in excess of twenty-five thousand dollars (\$25,000) the developer must provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The Planning Commission may release the bond or other assurance when the building, structures, or improvements have been completed according to the development plan.

3. Provisions for Ownership, Improvement and Maintenance of Open Space and Recreation Areas

Adequate provision shall be made to insure the continued beneficial use of any common open area by the residents of the development. Open space shall serve the functions of providing space for recreation and amenity only. Any common area shall be transferred to the private maintenance trust at a time and in the manner specified by the Planning Commission as a condition of approval of the project.

D. Access

1. Every structure hereafter erected or moved shall be on a lot adjacent to a public street, or with access to a private street approved for said lot and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
2. Access and circulation shall adequately provide for fire fighting equipment, service deliveries, furniture moving vans, and refuse collection.
3. Pedestrian access shall be provided at the rear of each attached dwellings.

E. Walks

Street sidewalks and on-site walks shall be provided for convenient and safe access to all living units from streets, driveways, parking courts, or garages and for convenient circulation and access to all facilities.

F. Recreation Areas

Adequate recreational facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units.

Attractive outdoor sitting areas shall be provided, appropriate in size, type, and number to the needs of the residents. Active recreation areas shall be provided which are appropriate for the needs of the residents. Activities may vary from horseback riding, and boating in large projects. Well equipped playgrounds of adequate size and number shall be provided where it is anticipated that children will occupy the premises.

G. Planting

The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings and grounds, and to screen out objectionable features. The planting plan shall be submitted with site plans.

H. Parking

1. Space Requirements:

As regulated in ARTICLE IV, SECTION 4.010.

2. Group Parking Facilities:

Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwellings units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit the space is to serve. Where appropriate, common driveways, parking areas, walks, and steps shall be maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges, and screening walls.

Any private drives, parking areas, or other vehicular ways used for common access for two (2) or more residents will be suitably paved and maintained as a condition of approval of the project.

ARTICLE V
ZONING DISTRICTS

SECTION

- 5.010 Classification of Districts
- 5.020 Zoning Map
- 5.030 Zoning District Boundaries
- 5.040 Zoning of Annexed Territory
- 5.050 Specific District Regulations
- 5.060 Floodplain District - Floodplain Management Regulations

5.010 CLASSIFICATION OF DISTRICTS

For the purpose of this Ordinance, the following zoning districts are hereby established in the Town of Westmoreland, Tennessee:

<u>Zoning District</u>	<u>District Abbreviation</u>
Low-Density Residential	R-1
Medium-Density	R-2
Central Business District	C-1
Highway Service District	C-2
General Industrial	I-1

5.020 ZONING MAP

The location and boundaries of the zoning districts established by this Ordinance are bounded and defined as shown on the map designated as the Official Zoning Map of Westmoreland, Tennessee. The Zoning Map and any amendment thereto shall be dated with the effective date of the adopted Official Zoning Map and amendments thereto shall be maintained in the office of the Building Inspector and shall be available for inspection by the public at all reasonable times, as long as this Ordinance remains in effect.

5.030 ZONING DISTRICT BOUNDARIES

Unless otherwise indicated, the district boundary lines are centerlines of streets or blocks or such lines extended, lot lines, corporate limit lines. Such lines drawn as to appear on these lines are hereby on these lines. Where district boundary lines approximately parallel a street or other right-of-way, such distance boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimensions shall be determined by use of the scale and said zoning map. Questions concerning the exact locations of district boundaries shall be determined by the Westmoreland Board of Zoning Appeals.

Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Board of Zoning Appeals may permit the extension of the regulations for either portion of the lot not to exceed five hundred (500) feet beyond the district line into the remaining portion of the lot.

5.040 ZONING OF ANNEXED TERRITORY

All territory which may hereafter be annexed to the Town of Westmoreland shall be zoned "Low-Density Residential, R-1." Such annexed territory shall retain such zoning classification until such time as the necessary studies are made by the Planning Commission and the Official Zoning Map is amended in the manner provided in Article VII, Section 7.090.

5.050 SPECIFIC DISTRICT REGULATIONS

The following regulations shall apply in the five (5) zoning districts established in Section 5.010, of this Ordinance.

5.051 Residential Districts

The Residential Districts established by this Ordinance are designed to promote and protect public health, safety, comfort, convenience, property, and other aspects of the general welfare. The general goals include, among others, the following specific purposes:

1. To provide sufficient space in appropriate locations for residential development to meet the housing needs of the Town's present and expected future population, with due allowance for the need for a choice of sites and building types;
2. To protect residential areas, as far as possible, against heavy traffic and against through traffic of all kinds;
3. To protect residential areas against congestion, by regulating the density of population and the bulk of buildings in relation to the land around them and to one another, and by providing for off-street parking spaces;
4. To require the provision of open space and a maximum conservation of natural sites in residential areas in order to provide larger open areas with greater utility for rest and recreation; and to encourage the development of more attractive and economic and less monotonous building forms, by providing freedom of architectural and site design;
5. To provide for access of light and air to windows and for privacy by controls over the spacing and height of buildings and other structures;
6. To provide appropriate space for those public and private educational, recreational, health, and similar facilities which serve the needs of nearby residents, which generally perform their own activities more effectively in a residential environment, and which do not create objectionable influences;
7. To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote stability of residential development, to protect the character of the district and its peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the Town's tax revenue.

5.051.1 R-1, Low-Density Residential District

A. District Description

This district is designed to provide suitable areas for low-density residential development characterized by an open appearance. Most generally this district will consist of single and duplex detached dwellings and such other structures as are accessory thereto. This district also includes community facilities, public utilities, and open uses which serve specifically the residents of the district, or which are benefited by and compatible with a residential environment. Further, it is the intent of this Ordinance that this district be located so that the provision of appropriate urban services and facilities will be physically and economically facilitated. It is the express purpose of this Ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this Ordinance.

B. Uses Permitted

In the R-1, Low-Density Residential District, the following uses and their accessory uses are permitted:

1. Single detached dwelling.
2. Prefabricated dwellings (Excluding Mobile Homes).
3. Duplexes dwellings.
4. Customary accessory buildings, including private garages and noncommercial workshops, provided they are located in the rear yard and not closer than five (5) feet to any lot line
5. Customary incidental home occupation as regulated in Article IV, Section 4.030.
6. Agriculture.

C. Uses Permitted as Special Exceptions

In the R-1, Low-Density Residential District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VII, Section 7.060.

1. Churches.
2. Public and private schools offering general education courses.
3. Nursery schools or kindergartens.

4. Public and semi-public recreational facilities and grounds.
5. Utility facilities (without storage yards) necessary for the provision of public services.
6. Government buildings and community centers.
7. Cemeteries.

D. Uses Prohibited

Mobile homes, mobile home parks; billboards and similar advertising structures; uses not specifically permitted; or uses not permitted upon approval as a special exception.

E. Dimensional Regulations

All uses permitted in the R-1, Low-Density Residential District shall comply with the following requirements, except as provided in Article VI.

1. Lot Size and Density of Development

<u>Minimum Lot Size</u>	<u>Area Required</u>	
	<u>With Public Sewer</u>	<u>Without Public Sewer</u>
<u>Use</u>		
-Single Detached Dwelling	10,000 sq. ft.	20,000 sq. ft.
-Duplex Dwelling	15,000 sq. ft.	40,000 sq. ft.
-All Other Uses	20,000 sq. ft.	40,000 sq. ft.

Density Permitted

-Single Detached	As Determined by Minimum Lot Size
-Duplex Dwellings	

2. Minimum Lot Width at Building Setback Line

-Single Detached Dwelling	80 ft.	100 ft.
-Duplex Dwelling	100 ft.	100 ft.
-All Other Uses	200 ft.	200 ft.

3. Yard Requirements

	<u>With Public Sewer</u>	<u>Without Public Sewer</u>
<u>Minimum Rear Yard</u>	30 ft.	30 ft.

Minimum Side Yard

-For One and Two Story Buildings	10 ft.	(Amended by Ordinance 326, December 21, 1998)
-Three Story Buildings	15 ft.	25 ft.

Minimum Front Yards

All principal and accessory structures shall be set back from the right-of-way lines of streets the minimum distance shown below, according to their classification on the latest major route plan:

Arterial Streets	50 ft.
Collector or Connector Streets	50 ft.
Minor Streets	30 ft.

4. Maximum Lot Coverage

On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed thirty-five (35) percent of the total area of such lot or parcel.

5. Height Requirement

No building shall exceed three stories or thirty-five (35) feet in height, except as provided in Article VI, Section 6.030.

6. Parking Space Requirements

As regulated in Article IV, Section 4.010.

5.051.2 R-2, Medium-Density Residential District

A. District Description

This district is designed to provide suitable areas for medium-density residential development where complete urban services and facilities are provided or where the extension of such services and facilities will be physically and economically facilitated. Most generally this district will be characterized by residential structures each containing a multiple number of dwelling units as well as single- and two-family dwellings, mobile homes and mobile home parks. However, it is the intent of this Ordinance to not restrict in number the dwelling units contained in a building provided there is sufficient area of zone lot and open space on such lot relative to the number of dwelling units thereon. This district is intended also to permit community facility and public utility installations which are necessary to service and do service specifically the residents of the district, or where installations are benefited by and compatible with a residential environment. It is the express

purpose of this Ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this Ordinance.

B. Uses Permitted

In the R-2, Medium-Density Residential District, the following uses and their accessory uses are permitted:

1. Single-family detached dwelling.
2. Individual mobile homes.
3. Prefabricated dwellings.
4. Duplex dwellings.
5. Semi-detached dwellings.
6. Customary accessory buildings, including private garages, provided they are located in the rear yard and not closer than five (5) feet to any lot line.
7. Customary incidental home occupations as regulated in Article IV, Section 4.040.

C. Uses Permitted as Special Exception

In the R-2, Medium-Density Residential District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VII, Section 7.060.

1. Churches.
2. Public and private schools offering general education courses.
3. Nursery schools and kindergartens.
4. Public and semi-public recreational facilities and grounds.
5. Utility facilities (without storage yards) necessary for the provision of public services.
6. Multi-family dwellings as regulated in Article IV, Section 4.090.
7. Government Building and community centers.

8. Cemeteries.
9. Mobile home parks as regulated in Article IV, Section 4.080.
10. Attached dwellings as regulated in Article IV, Section 4.100.

D. Uses Prohibited

Billboards and similar advertising structures; uses not specifically permitted; or uses not permitted upon approval of a special exception.

E. Dimensional Regulations

All uses permitted in the R-2, Medium-Density Residential District, shall comply with the following requirements, except as provided in Article VI.

1. Lot Size and Density of Development

<u>Use</u>	<u>Area Required</u>	
	<u>With Public Sewer</u>	<u>Without Public Sewer</u>
-Single Detached Dwelling	9,000 sq. ft.	20,000 sq. ft.
-Mobile Homes Located on Individual Lots	8,000 sq. ft.	20,000 sq. ft.
-Duplex and Semi-Detached Dwellings	12,000 sq. ft.	40,000 sq. ft.
-Attached Dwellings	As Required by Section 4.100	
-Multi-Family Dwellings	As Required by Section 4.090	
-All Other Uses	16,000 sq. ft.	40,000 sq. ft.

Density Permitted

-Single Detached Dwelling And Mobile Homes Located on Individual Lots	Determined by Minimum Lot Size Requirements
-Duplex and Semi-Detached Dwellings	Determined by Minimum Lot Size Requirements
-Attached Dwellings	As Required by Section 4.100
-Multi-Family Dwellings	As Required by Section 4.090
-Mobile Homes Located in Mobile Home Parks	As Required by Section 4.080

2. Lot Width at Building Setback Line

-Single Dwellings and Mobile Homes	75 ft.	100 ft.
-Duplex Dwellings	75 ft.	100 ft.
- Other Uses	100 ft.	200 ft.

3. Minimum Yard Requirements

Minimum Rear Yard 25 ft.

Minimum Side Yard

-For One and Two Story Buildings	10 ft.	(Amended by Ordinance 326, December 21, 1998)
-Three Story Buildings	20 ft.	

Minimum Front Yards

All principal and accessory structures shall be set back from the right-of-way lines of streets the minimum distance shown below, according to their classification on the latest major route plan:

Arterial Streets	50 ft.
Collector or Connector Streets	40 ft.
Minor Streets	30 ft.

4. Maximum Lot Coverage

On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed forty (40) percent of the total area of such lot or parcel.

5. Height Requirement

No building shall exceed thirty-five (35) feet in height, except as provided in Article VI, Section 6.030.

6. Parking Space Requirements

As regulated in Article IV, Section 4.010.

5.052 Commercial District

The Commercial District established by this Ordinance is designed to promote and protect the health, safety, morals, convenience, order, prosperity and other aspects of the general welfare. These goals include, among others, the following:

1. To provide sufficient space, in appropriate locations in proximity to established residential areas, for local retail and service trades catering specifically to the recurring shopping needs of the occupants of nearby residences.

2. To protect both retail and service developments and nearby residences against fire, explosions, toxic and noxious matter, radiation, and other hazards, and against offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, heat, humidity, glare, and other objectionable influences.
3. To protect both retail and service developments and nearby residences against congestion, by regulating the intensity of retail and service developments consistent with their marketing functions, by restricting those types of establishments which generate heavy traffic, and by providing for off-street parking and loading facilities.
4. To provide sufficient space in an appropriate location for a commercial district to satisfy specific functional needs of Westmoreland, and in particular to serve the general public traveling along a major highway.
5. To provide sufficient space in appropriate locations for the mixture of compatible high density residential and restricted commercial developments where standards for development will provide protection for the environmental essentials of either.
6. To provide sufficient space in appropriate locations for all types of commercial and miscellaneous service activities.
7. To enhance the central business district and to promote and protect its service attributes, to lessen congestion in the district, to provide for high intensity of land use consistent with land valuation, and to protect its intended functional aspects against encroachment by detrimental influences.
8. To promote the most desirable use of land and direction of building development in accord with a well considered plan, to promote stability of commercial development, to strengthen the economic base of Westmoreland, to protect the character of the districts and their peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the Town's tax revenues.

5.052.1 C-1, Central Business District

A. District Description

This district is designed to provide for a wide range of retail, office, amusement, service uses, and light industrial processes involving high performance standards. In addition, this district provides for governmental uses, and community facilities and utilities necessary to serve the district or which are required for the general community welfare. The regulations are structured to permit maximum freedom of pedestrian movement. Relative high density and intensity of use is permitted in this district.

B. Uses Permitted

In the C-1, Central Business District, the following uses and their accessory uses are permitted:

1. Retail establishments.
2. Professional, finance, insurance, real estate, personal, business and repair services.

3. Hotels, motels and boarding houses.
4. Commercial amusement establishments.
5. Churches and other places of assembly.
6. Mortuaries.
7. Newspaper and printing plants.
8. Governmental buildings and community centers.
9. Utility facilities (without storage) necessary for the provisions of public services.
10. Community services.
11. Educational services.
12. Signs and billboards as regulated in Article IV, Section 4.060.
13. Medical facilities and services—including medical offices, clinics, analytical, rehabilitative and long term care facilities.
14. Commercial recreation uses.

C. Uses Permitted as Special Exception

In the C-1, Central Business District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VII, Section 7.060.

1. Automotive parking lot.
2. Manufacturing, provided such activity does not exceed the definition of "Light Industry" as found in Article II, Section 2.020.

D. Uses Prohibited

Industrial uses (except as permitted as a special exception); warehousing and storage uses, except those which are located within and incidental to permitted uses; automobile wrecking, junk, and salvage yards; uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Requirements

All uses permitted in the C-1, Central Business District shall comply with the following requirements except as provided in Article VI.

1. Minimum Lot Size

No minimum lot size shall be required in the C-1 District.

2. Minimum Yard Requirements

No yards, as such, are required within the C-1 District. However if an open area extending along a side lot line is provided, it shall be at least ten (10) feet wide, and it shall be unobstructed.

3. Maximum Lot Coverage

There is no restriction on the area occupied by all buildings including accessory buildings on a lot or parcel located in the C-1 District.

4. Height Requirement

No building shall exceed three (3) stories or forty (40) feet in height, except as provided in Article VI, Section 6.030.

5. Parking Space Requirements

As required in Article IV, Section 4.010.

5.052.2 C-2, Highway Service District

A. District Description

This district is designed to provide adequate space in appropriate locations for uses which serve the needs of the motoring public. Automobile and other vehicular service establishments, transient sleeping accommodations, and eating and drinking establishments primarily characterize this district. In addition, commercial trade and service uses are permitted if necessary to serve the recurring needs of persons frequenting these districts. Community facilities and utilities necessary to serve these districts, or necessary for the general community welfare are also permitted. Bulk limitations required of uses in these districts, in part, are designed to maximize compatibility with lesser intense use of land or building in proximate residential districts. Appropriate locations for this district is along major traffic arteries.

B. Uses Permitted

In the C-2, Highway Service District, the following uses and their accessory uses are permitted:

1. Retail Trade:

- (a) Building materials, hardware, and farm equipment;
- (b) General merchandise;
- (c) Food;

- (d) Automotive, marine craft, aircraft and accessories;
 - (e) Apparel and accessories;
 - (f) Furniture, home furnishings, and equipment;
 - (g) Eating and drinking;
 - (h) Drug, antiques, books, sporting goods, garden supplies, jewelry, fuel and ice.
- 2. Hotels, motels, and tourist courts.
 - 3. Churches and mortuaries.
 - 4. Professional services.
 - 5. Gasoline service stations subject to the provisions of Article IV, Section 4.050.
 - 6. Commercial recreational uses.
 - 7. Signs and billboards as regulated in Article IV, Section 4.060.
 - 8. Finance, insurance and real estate services.
 - 9. Personal services.
 - 10. Business services.
 - 11. Repair services.
 - 12. Governmental services.
 - 13. Educational services.
 - 14. Transportation, communication and utility services.
 - 15. Medical facilities and services--including medical offices, clinics, analytical, rehabilitative and long term care facilities.
 - 16. Animal health facilities, including veterinary clinics.
 - 17. Warehousing and storage uses.
 - 18. Truck terminals.

C. Uses Permitted as Special Exception

In the C-2, Highway Service District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VII, Section 7.060.

1. Travel trailer parks and overnight campgrounds.
2. Manufacturing, provided such activity does not exceed the definition of "Light Industry" as found in Article II, Section 2.020.

D. Uses Prohibited

Industrial uses; junkyards, including automobile wrecking, and salvage; uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations

All uses permitted in the C-2, Highway Service District shall comply with the following requirements except as provided in Article VI.

1. Minimum Lot Size

No minimum lot size shall be required in the C-2 District.

2. Minimum Yard Requirements

Front Setback - 35 ft.

Side - None is required. However if an open area extending along a side lot line is provided, it shall be at least ten (10) feet wide, and it shall be unobstructed.

Rear - Fifteen (15) feet if a rear entrance is provided, otherwise none is required.

3. Maximum Lot Coverage

No maximum lot coverage shall be imposed in the C-1 District.

4. Height Requirement

No building shall exceed forty (40) feet in height, except as provided in Article VI, Section 6.030.

5. Parking Space Requirements

As required in Article IV, Section 4.010.

5.052.3 C-3, Restricted Office, Medical and Commercial District

- A. This district is designed to provide adequate space in appropriate locations for a limited variety of commercial and office uses which would not adversely impact on adjacent residential uses. Certain office type activities, limited medical facilities, and drug stores are envisioned as being the type uses allowed in this district. Appropriate locations for this district are along major arterials in places that are easily accessible from residential areas.

B. Uses Permitted

In the C-3, Restricted Office, Medical and Commercial District, the following uses are permitted.

1. Medical doctor's offices for the outpatient treatment of humans.
2. Dental offices.
3. Lawyers' offices.
4. Real Estate Offices.
5. Drug store.
6. Barber and Beauty shops.

C. Uses Prohibited

All uses not specifically permitted.

D. Dimensional and Required Site Design Regulations

All uses permitted in the C-3, Restricted Offices, Medical and Commercial Districts shall comply with the following requirements except as provided in Article VI.

1. Minimum Lot Size

No minimum lot size shall be required in the C-3 Districts.

2. Minimum Yard Requirements

Front Setback - 35 ft.

Side - 15 ft.

Rear - Twenty (20) feet except where the rear lot line abuts a residential district, in which case the setback shall be thirty (30) feet with an appropriate screen of trees and shrubs.

3. Maximum Lot Coverage

The maximum lot coverage shall be forty (40) percent, not including parking spaces and driveways.

4. Height Requirement

No building shall exceed thirty-five (35) feet in height.

5. Parking Space Requirements

As regulated in Article IV, Section 4.010.

6. Green Treatment and Site Design

Each site development in the C-3, Restricted Commercial District shall be developed with at least ten (10) percent of the area landscaped with green treatment, which shall consist of grass, shrubs, plants, or other indigenous flora. Rocks will not be permitted. No signs, merchandise or other material shall be placed on or above this area. This area shall be located at least fifty (50) percent in front of the building. The remainder may be placed on either side but not beyond the principal structures' rear wall. For a lot whose property abuts a residential district, an appropriate planting strip at least ten (10) feet wide shall be planted with evergreen trees that reach a height of at least ten (10) feet within five (5) years, and shrubs that reach a height of at least six (6) feet in two (2) years.

Garbage containers for commercial and other uses shall be screened from view by an appropriate fence, wall or screen. A sketch of said screen, fence or wall shall accompany the site plan. In the case of dumpsters, the pad and approach to the pad shall consist of twelve (12) inches of steel reinforced concrete for the length of a dumpster pick-up truck.

Developers shall pay a plan review fee of ten cents (\$0.10) per square foot of building area, not to exceed two hundred-fifty dollars (\$250.00), to be utilized by the Town to hire professional consultants to insure compliance with fire and building codes and for a site plan review fee.

The site plan shall contain all the items contained in the above section, plus two (2) foot contour intervals, drainage control design, access, parking and circulation diagrams and the proposed location of any signs on the site.

All signs not referring to the name of the existing enterprise or to persons employed on the site are prohibited. There shall be no flashing or intermittently lighted signs and all signs shall be limited to twelve (12) feet in height. All signs must be at least six (6) feet above the ground level. Each office or use shall be limited to one (1) sign of not more than thirty-six (36) square feet in area.

There shall be no buildings constructed with a rear entry delivery system adjacent to a residential district. All buildings to be located within the C-3 Residential Commercial District shall be of compatible construction composed of an extension of brick, stone or better materials.

The Planning Commission will exercise the power of site review and all site plans (drawn to a scale of one (1) inch equals fifty (50) feet or larger) shall be approved by the commission before a Building Permit may be issued.

5.053 Industrial Districts

The Industrial Districts established by this Ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following specific purposes:

1. To provide sufficient space, in appropriate locations, to meet the needs of the area of the Town's expected economic expansion in the Town for all types of distributive, industrial and related activities, with due allowance for the need for choice of suitable sites.
2. To protect distributive, industrial and related activities, as well as residential and related activities by providing for the separation of these uses, and, as far as possible, provided that appropriate space needs for distributive and industrial activities are available by prohibiting the use of such space for residential purposes.
3. To encourage industrial development which is free from danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust or other particulate matter, and other hazards, and from offensive noise, vibration, odorous matter, heat, humidity, glare, and other objectionable influences, by permitting such development areas where this Ordinance restricts the emission of such nuisances, without regard to the industrial products and processes involved.
4. To protect adjacent residential and commercial areas, and to protect the labor force in other establishments engaged in less offensive types of industrial and related activities, by restricting those industrial activities which involve danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust, or other particulate matter, and other hazards, or which create offensive noise, vibration, heat, humidity, glare, and other objectionable influences, by permitting such development in areas where this Ordinance restricts the emission of such nuisances, without regard to the industrial products or processes involved.
5. To protect industrial activities and related development against congestion, as far as is possible and appropriate in each area, by limiting the bulk of buildings in relation to the land around them and to one another, and by requiring space off public ways for parking and loading facilities associated with such activities.
6. To promote the most desirable use of land and direction of building development, to promote stability of industrial and related development, to strengthen the economic base of the Westmoreland area, to protect the character of these districts and their peculiar suitability for particular uses, and to conserve the value of land and buildings, and to protect the Town's tax revenues.

5.053.1 I-1, General Industrial District

A. District Description

This district is designed for a wide range of industrial and related uses which are basically as compatible as possible with other types of land uses which

this district may adjoin and which cause little off-site adverse impact. New residential development is excluded from this district, both to protect residences from an undesirable environment and to ensure the reservation of adequate areas for industrial development. Community facilities which provide needed services to the allowable industrial uses are permitted.

B. Uses Permitted:

In the I-1, General Industrial District, the following uses and their accessory uses are permitted:

1. Food and kindred products manufacturing.
2. Textile mill products manufacturing.
3. Apparel and other finished products made from fabrics, leather, and similar materials manufacturing.
4. Furniture and fixtures manufacturing.
5. Printing, publishing and allied industries.
6. Stone, clay, and glass products manufacturing.
7. Fabricated metal products manufacturing.
8. Professional, scientific, and controlling instruments; photographic and optical goods, watches and clocks manufacturing.
9. Miscellaneous manufacturing including jewelry, silverware and plated ware, musical instruments and parts, toys, amusement and sporting goods manufacturing, pens, pencils, and other office materials, costume jewelry, novelties and miscellaneous notions; tobacco manufacturing, motion picture production.
10. All types of wholesale trade.
11. Office functions only where it is directly related to the industrial establishment in which it is located.
12. Signs and billboards as regulated in Article IV, Section 4.060.
13. Warehouse, storage and truck terminal facilities.
14. Agricultural equipment sales and repair.
15. All public utilities including buildings, necessary structures, storage yards and other related uses.
16. Building materials storage and sales.
17. Lumber and wood products manufacturing.

18. Lots or yards for scrap or salvage operations or for processing, storage, display, or sales of any scrap or salvage materials.
19. Paper and allied products manufacturing.
20. Chemicals and allied products manufacturing.
21. Petroleum refining and related industries.
22. Rubber and miscellaneous plastic products manufacturing.
23. Primary metal industries.
24. Airports.
25. Solid waste disposal, subject to the approval of the Sumner County Health Department, the Tennessee Department of Public Health, and the Westmoreland Mayor and Board of Aldermen.
26. Mining activities and related services.

C. Uses Permitted as Special Exceptions

In the I-1, General Industrial District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VII, Section 7.060.

1. Restaurants and cafeterias where food is consumed on the premises inside the principal structure.
2. Convenience sales.
3. Automobile wrecking, salvage, and junk yards, subject to provisions of Article IV, Section 4.070.
4. Adult Oriented Establishments and its accessory uses may be permitted as special exceptions after a Public Hearing, review and approval by the Board of Zoning Appeals in accordance with Article VII, Section 7.060, Procedure for Authorizing Special Exceptions; and Article III, Section 3.130, Requirements Governing Adult Oriented Establishments. **(Added by Ordinance 364, September 20, 2004)**

D. Uses Prohibited

Uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations

All uses permitted in the I-1, General Industrial District shall comply with the following requirements, except as provided in Article VI.

1. Minimum Lot Size

Twenty thousand (20,000) square feet.

2. Minimum Yard Requirements

Front Setback	45 ft.
Side	20 ft.
Rear	20 ft.

3. Maximum Lot Coverage

On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed fifty (50) percent of the total area of such lot or parcel.

4. Height Requirements

No building shall exceed fifty (50) feet in height, except as provided in Article VI, Section 6.030.

5. Parking Space Requirements

As regulated in Article IV, Section 4.010.

5.060 Floodplain District – Floodplain Management Regulations (Added by Ordinance 374, June 19, 2006)

5.061 Statutory Authorization, Findings of Fact, Purpose and Objectives

1. Statutory Authorization

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210; Tennessee Code Annotated, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Westmoreland Board of Mayor and Aldermen, does ordain as follows:

2. Findings of Fact

- (a) The Westmoreland Board of Mayor and Aldermen, wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition).
- (b) Areas of Westmoreland are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

- (c) These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

3. Statement of Purpose

It is the purpose of this Ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

- (a) Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
- (b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers involved in the accommodation flood waters;
- (d) Control filling, grading, dredging and other development which may increase flood damage or erosion, and;
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

D. Objectives

The objectives of this Ordinance are:

- (a) To protect human life, health and property;
- (b) To minimize expenditure of public funds for costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;
- (f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;
- (g) To ensure that potential homebuyers are notified that property is in a floodable area; and
- (h) To maintain eligibility for participation in the National Flood Insurance Program.

5.062 Definitions

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application given its stated purpose and objectives.

"Accessory Structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

- (1) Accessory structures shall not be used for human habitation.
- (2) Accessory structures shall be designed to have low flood damage potential.
- (3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.
- (4) Accessory structures shall be firmly anchored to prevent flotation that may result in damage to other structures.
- (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

"Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered **"New Construction"**.

"Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this Ordinance or a request for a variance.

"Area of Shallow Flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one (1) percent or greater annual chance of flooding to an average depth of one to three (1'-3') feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

"Area of Special Flood-Related Erosion Hazard" is the land within a community that is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E, may be further refined.

"Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one- percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A, usually is refined into Zones A, AO, AH, A1-30, AE or A99.

"Base Flood" means the flood having a one (1) percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway Wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

"Building", means any structure built for support, shelter, or enclosure for any occupancy or storage (See **"Structure"**)

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

"Elevated Building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood water, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

"Emergency Flood Insurance Program" or **"Emergency Program"** means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

"Erosion" means the process of the gradual wearing away of landmasses. This peril is not per se covered under the Program.

"Exception" means a waiver from the provisions of this Ordinance that relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

"Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

"Existing Structures" see **"Existing Construction"**.

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Elevation Determination" means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one (1) percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

"Floodplain" or "Flood Prone Area" means any land area susceptible to being inundated by water from any source (see definition of **"Flood"** or **"Flooding"**).

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"Flood Protection System" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Flood-Related Erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-Related Erosion Area" or **"Flood-Related Erosion Prone Area"** means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-Related Erosion Area Management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- (3) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior, or
 - (b) Directly by the Secretary of the Interior.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

"Levee System" means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"Lowest Floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term **"Manufactured Home"** does not include a **"Recreational Vehicle"**, unless such transportable structures are placed on a site for one hundred-eighty (180) consecutive days or longer.

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

"Mean-Sea-Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

"New Construction" means any structure for which the "start of construction" commenced after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

"North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

"100-Year Flood" see **"Base Flood"**.

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

"Recreational Vehicle" means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Special Hazard Area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred-eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main

structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" The Tennessee Department of Economic and Community Development's, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the Administrator to assist in the implementation of the National Flood Insurance Program for the state.

"Structure" for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any repairs, reconstruction's, rehabilitation's, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

For the purpose of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially Improved Existing Manufactured Home Parks or Subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

5.063 General Provisions

1. **Application**

This Ordinance shall apply to all areas within the incorporated area of Westmoreland, Tennessee.

2. **Basis for Establishing the Areas of Special Flood Hazard**

The Areas of Special Flood Hazard identified on the Westmoreland, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 0200 and 0225, dated, September 20, 2006, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

3. **Requirement for Development Permit**

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

4. **Compliance**

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

5. **Abrogation and Greater Restrictions**

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

6. **Interpretation**

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

7. **Warning and Disclaimer of Liability**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of

Westmoreland, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

8. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Westmoreland, Tennessee from taking such other lawful actions to prevent or remedy any violation.

5.064 Administration

1. Designation of Ordinance Administrator

The Building Inspector is hereby appointed as the Administrator to implement the provisions of this Ordinance.

2. Permit Procedures

Application for a development permit shall be made to the Building Inspector on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application Stage

- (i) Elevation in relation to mean-sea-level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations (BFE's) are available, or to the highest adjacent grade when applicable under this Ordinance.
- (ii) Elevation in relation to mean-sea-level to which any nonresidential building will be floodproofed where BFE's are available, or to the highest adjacent grade when applicable under this Ordinance.
- (iii) Design certificate from a registered professional engineer or architect that the proposed nonresidential floodproofed building will meet the floodproofing criteria in Subsection 5.064, 2.
- (iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction Stage

Within unnumbered A Zones, where flood elevation data are not available, the Building Inspector shall record the elevation of the lowest floor on the

development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the Building Inspector an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A Zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean-sea-level shall be prepared by or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a nonresidential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Building Inspector shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

3. Duties and Responsibilities of the Building Inspector

Duties of the Building Inspector shall include, but not be limited to:

- (a) Review of all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
- (b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.
- (c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.
- (d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

- (e) Record the elevation, in relation to mean-sea-level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with Subsection 5.064, 2.
- (f) Record the actual elevation; in relation to mean-sea-level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been floodproofed, in accordance with Subsection 5.064, 2.
- (g) When floodproofing is utilized for a structure, the Building Inspector shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with Subsection 5.064, 2.
- (h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Building Inspector shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
- (i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the Building Inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Community FIRM meet the requirements of this Ordinance.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the Building Inspector shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Subsection 5.062, of this Ordinance). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Subsection 5.064, 2.

- (j) All records pertaining to the provisions of this Ordinance shall be maintained in the office of the Building Inspector and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

5.065 Provisions for Flood Hazard Reduction

1. General Standards

In all flood prone areas the following provisions are required:

- (a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

- (b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;
- (d) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;
- (e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance; and,
- (j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not further extended or replaced.

2. Specific Standards

These provisions shall apply to ALL Areas of Special Flood Hazard as provided herein:

- (a) Residential Construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of flood water shall be provided in accordance with the standards of Section 5.064, 2.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the Building Inspector shall require the lowest floor of a building to be elevated or floodproofed to

a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Subsection 5.062, of this article). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Subsection 5.064, 2.

- (b) Nonresidential Construction. New construction or substantial improvement of any commercial, industrial, or nonresidential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one (1) foot above the level of the base flood elevation.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the Building Inspector shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Subsection 5.062, of this article). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Subsection 5.064, 2.

Buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Building Inspector as set forth in Subsection 5.064, 2.

- (c) Elevated Building. All new construction or substantial improvements to existing buildings that include ANY fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- (i) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.
- a. Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than one (1) foot above the finish grade; and
 - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of flood waters in both directions.

- (ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and
 - (iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of flood waters and all such petitions shall comply with the provisions of Subsection 5.065, 2, of this Ordinance.
- (d) Standards for Manufactured Homes and Recreational Vehicles
 - (i) All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.
 - (ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - a. When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one (1) foot above the level of the base flood elevation; or,
 - b. Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three (3) feet in height above the highest adjacent grade.
 - c. Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of Article V, Section 5.065, 2, of this Ordinance.
 - d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - e. All recreational vehicles placed on identified flood hazard sites must either:
 - i. Be on the site for fewer than one hundred-eighty (180) consecutive days;
 - ii. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to

the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.

- iii. The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred-eighty (180) consecutive days.

(e) Standards for Subdivisions

Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

- (i) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

3. Standards for Areas of Special Flood Hazard with Established Base Flood Elevations and with Floodways Designated

Located within the Areas of Special Flood Hazard established in Subsection 5.063, 2, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of flood waters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

- (a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in ANY increase the water surface elevation of the base flood level, velocities or floodway

widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

- (b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of Subsection 5.065.

D. Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated

Located within the Areas of Special Flood Hazard established in Subsection 5.063, 2, where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

- (a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- (b) New construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with Subsection 5.065, 2.

5. Standards for Streams Without Established Base Flood Elevations or Floodways (A Zones)

Located within the Areas of Special Flood Hazard established in Subsection 5.063, 2, where streams exist, but no base flood data has been provided (A Zones), OR where a Floodway has not been delineated, the following provisions shall apply:

- (a) When base flood elevation data or floodway data have not been provided in accordance with Subsection 5.063, then the Building Inspector shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State or other source, in order to administer the provisions of Section (a)-(e) **ONLY** if data is not available from these sources, then the following provisions (b) and (c) shall apply:
- (b) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty (20) feet, whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

- (c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of Subsection 5.065, 2, and "Elevated Buildings".

6. Standards for Areas of Shallow Flooding (AO and AH Zones)

Located within the Areas of Special Flood Hazard established in Subsection 5.063, 2, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- (a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Subsection 5.065, 2, and "Elevated Buildings".
- (b) All new construction and substantial improvements of nonresidential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be floodproofed to at least three (3) feet above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the Building Inspector as set forth above and as required in Subsection 5.064, 2.
- (c) Adequate drainage paths shall be provided around slopes to guide flood waters around and away from proposed structures.
- (d) The Building Inspector shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

7. Standards for Areas Protected by Flood Protection System (A-99 Zones)

Located within the areas of special flood hazard established in Subsection 5.063 are areas of the 100-year floodplain protected by a flood protection system but where

base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of Subsection 5.064, and Subsection 5.065, 1, shall apply.

8. Standards for Unmapped Streams

Located within Westmoreland are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

- (a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
- (b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with Section 5.064.

5.066 Variance Procedures

The provisions of this section shall apply exclusively to areas of Special Flood Hazard within Westmoreland, Tennessee.

1. Board of Zoning Appeals

- (a) The Westmoreland Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
- (b) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- (c) In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
 - (i) The danger that materials may be swept onto other property to the injury of others;
 - (ii) The danger to life and property due to flooding or erosion;
 - (iii) The susceptibility of the proposed facility and its contents to flood damage;
 - (iv) The importance of the services provided by the proposed facility to the community;

- (v) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
 - (vi) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (vii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (viii) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (viii) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
 - (ix) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (d) Upon consideration of the factors listed above, and the purposes of this Ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this Ordinance.
 - (e) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

2. Conditions for Variances

- (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.
- (b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
- (c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.
- (d) The Building Inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

ARTICLE VI
EXCEPTIONS AND MODIFICATIONS

SECTION

- 6.010 Scope
- 6.020 Nonconforming Uses and Noncomplying Buildings
and Other Structures
- 6.030 Exceptions to Height Limitations
- 6.040 Lots of Record
- 6.050 Exception to Front Setback Requirements
- 6.060 Absolute Minimum Lot Size
- 6.070 Exception to Lot Width Requirements

6.010 SCOPE

Article VI, of this ordinance, is devoted to providing for the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided in Article IV and Article V.

6.020 NONCONFORMING USES AND NONCOMPLYING BUILDINGS AND OTHER STRUCTURES

The districts established in this ordinance (as set forth in district regulations in Article V) are designed to guide the future use of land in Westmoreland, Tennessee by encouraging the development of desirable residential, commercial, and industrial areas with appropriate groupings of compatible and related uses and thus promote and protect the public health, safety, and general welfare.

As a necessary corollary, in order to carry out such purposes, nonconforming uses which adversely affect the development of such areas must be subject to certain limitations. The provisions governing nonconforming uses set forth in this Article are therefore established in order to provide a gradual remedy for existing undesirable conditions resulting from such incompatible nonconforming uses, which are detrimental to the achievement of such purposes. While such uses are generally permitted to continue, this ordinance is designed to restrict further investment in such uses which would make them more permanent establishments in inappropriate locations.

In the cases of a few objectionable nonconforming uses which are detrimental to the character of certain districts, a reasonable statutory period of life is established for such uses in order to permit the owner to gradually make his plans for the future during a period in which the nonconforming use is allowed to continue, thereby minimizing any loss, while at the same time assuring the public that the districts in which nonconformity exists will eventually benefit from a more uniform character.

In the case of buildings or other structures not complying with the bulk regulations of this ordinance, the provisions governing noncomplying buildings or other structures set forth in this Article are established in order to permit the appropriate use of such buildings or other structures, but to prevent the creation of additional noncompliance or increase in the degree of noncompliances.

These provisions are thus designed to preserve the character of the districts established in this ordinance in light of their suitability to particular uses, and thus to promote the public health, safety, and general welfare.

6.021 Provisions Governing Nonconforming Uses

A. Applicability

The provisions of this section are applicable to all uses which are not permitted within the districts in which they are located. Additionally, uses not meeting the performance standards along with buildings and other structures located within the floodplain are considered within the regulation of nonconforming uses.

B. Construction or Use Permit Approved Prior to Ordinance Adoption

Nothing contained herein shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure, or part thereof where official approvals and required building permits have been granted before the enactment of this ordinance, or any amendment thereto, the construction of which, conforming with such plans, shall have been started prior to the effective date of this ordinance and completion thereof carried on in a normal manner within the subsequent six (6) months period, and not discontinued until completion except for reasons beyond the builder's control.

In the event that the activity or construction of such building or other structures is not substantially underway and being diligently pursued within the six (6) month period following the issuance of a certificate or permit, then such certificate or permit shall automatically lapse and the provisions of this ordinance shall apply.

C. Continuation of Nonconforming Use

Any nonconforming use which existed lawfully at the time of enactment of this ordinance and which remains nonconforming, or any use which remains nonconforming, or any use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto may be continued subject to the following provisions.

D. Conditional Use - Status and Alteration

Whenever the zoning ordinance in effect at the time of adoption of this zoning ordinance has authorized any use which is not permitted as of right by issuing a variance, exception, or permit to locate in a district such authorization may be continued subject to the conditions concerning such use which were established at the time of approval of said variance, exception, or conditional use, including any time period established for the continuation of such use. However, any change of use, alteration or expansion is subject to the provisions of this article.

E. Repairs and Alterations

1. General

Nothing in this section shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

Minor repairs may be made to a building or other structure occupied by a nonconforming use, or in connection with a permitted change of nonconforming use.

No alteration (as defined by this ordinance) other than minor repairs shall be made to a building or the structure occupied by a nonconforming use, except as provided in Subsection (F) below or:

- (a) In order to comply with requirements of law regarding fire protection, safety of the structure, etc.; or
- (b) In order to conform to the applicable district regulations or performance standards.

2. Alteration of Commercial and Industrial Nonconforming Uses

Any commercial or industrial use subject to the provisions of this section shall be allowed to continue in operation and to make such alterations as may prove necessary for the continuation of said use. However, no alteration may be made which would result in a change from one nonconforming use to another nonconforming use shall be subject to the provisions of Section F, 5, below, and further provided that any such alteration permitted hereunder shall take place only upon the zone lot(s) on which said use was operating as of the effective date of this ordinance, or any subsequent amendment thereto.

F. Change of Nonconforming Use

1. General Provisions

For the purpose of this section, a change in use is a change to another use either under the same activity type or any other activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

A nonconforming use may be changed to any conforming use, and the applicable bulk regulations and accessory off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use.

2. Land with Incidental Improvements

In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall be changed only to a conforming use.

3. Buildings Designed for Residential Use

In all residential districts, a nonconforming use located in a building designed for residential use may be changed only to a conforming use permitted in the applicable district.

4. Buildings Designed for Nonresidential Use

In all residential districts, a nonconforming use located in a building designed for nonresidential use may be changed only to a conforming use or such nonconforming use may be changed to another nonconforming use provided that:

- Structural alterations, except as permitted in Subsection E, above, or enlargements are not made to the building or other structure(s).
- The degree of nonconformity or noncompliance is not increased.
- The nonconforming use to which such change is made will be less detrimental to the surrounding neighborhood than the existing nonconforming use.
- The provisions of Subsection F, 2, are not applicable.
- The Board of Appeals grants approval

5. Nonconforming Use Located in Commercial and Industrial Districts

In all commercial and industrial districts, a nonconforming use may be changed to a conforming use or such nonconforming use may be changed to another nonconforming use provided that:

- Structural alterations, except as permitted in Subsection E, above, or enlargements are not made to the building or other structures.
- The degree of nonconformity or noncompliance is not increased.
- All materials or products necessary thereto are stored within an enclosed building.
- The nonconforming use to which such change is made will be less detrimental to the surrounding neighborhood than the existing nonconforming use.
- The provisions of Subsection F, 2, above, are not applicable.

6. Zone Lot Containing Nonconforming Use

A zone lot containing a nonconforming use shall not be reduced in area except to comply with Subsection E, above.

7. Nonconforming to Conforming Use

Whenever a nonconforming use is changed to conforming use, such use shall not thereafter be changed to a nonconforming use, or whenever a nonconforming use is changed as permitted under Subsections 6, d, and e, above, such use shall not be changed to another use which would increase the degree of nonconformity.

G. Damage or Destruction

In all districts when any building or structure which is substantially occupied by a nonconforming use is damaged or destroyed, the following shall apply.

1. Land with Incidental Improvements

In all districts, when a nonconforming building or other structure or improvements located on "land with incidental improvements" (as defined in Subsection F, 2, above) is damaged or destroyed to the extent of twenty-five (25) percent or more of the assessed valuation of all buildings, and other structures or other improvements located thereon (as determined from the assessment rolls effective on the date of damage or destruction), such nonconforming use shall terminate and the tract of land shall thereafter be used only for a conforming use.

2. Building Designed for Residential Use

In all residential districts, if the floor area occupied or utilized by a nonconforming use within a building designed for residential use is damaged or destroyed by any means to the extent of twenty-five (25) percent or more of the floor area occupied or utilized by such nonconforming use, the nonconforming use shall terminate, and the area shall only be used thereafter for a conforming use. If the extent of such damage or destruction is less than twenty-five (25) percent of the floor area occupied or utilized by a nonconforming use, the building may be restored and the nonconforming use continued provided that:

- (a) A zoning permit pertaining to such restoration is applied for and issued within one (1) year of such damage,
- (b) A certificate of zoning compliance is applied for and issued within one (1) year after the zoning permit is issued, and
- (c) Such restoration shall not cause a new nonconformance nor increase the degree of nonconformance or noncompliance existing prior to such damage or destruction.

3. Use of Alternate Formula

In any case where the applicant or the enforcing officer alleges that the floor area is an inappropriate measure of the extent of damage or destruction, and elects to substitute reconstruction costs for floor area, an application may be made to the Board of Zoning Appeals to determine the extent of damage or destruction. The Board may grant such application permitting such building to be restored only if the Board finds that the estimated cost of restoring the damage or destroyed portion of such building is not greater than fifty (50) percent of the estimated cost of reconstructing the entire building. In determining reconstruction costs, the cost of land shall be excluded. Cost data used for the purpose of applying the provisions of this section shall be provided by the applicant and if such data is to the satisfaction of said Board, such Board shall permit the restoration.

4. Damage or Destruction of Commercial or Industrial Nonconforming Uses

Any commercial or industrial use subject to the provisions of this section shall be allowed to destroy and reconstruct new facilities necessary to the conduct of such operation, provided that destruction or rebuilding:

- Shall not infringe upon, or increase the extent of any infringement existing at the time of adoption of this ordinance, upon any open space required by this ordinance.
- Shall take place only upon the zone lot(s) on which said use was operating as of the effective date of this ordinance.

H. Discontinuance

1. General

When a nonconforming use of land with minor improvements or the active operation of substantially all the nonconforming uses in any building or other structure or tract of land is discontinued for a period of one (1) year, then the land or building or other structure shall thereafter be used only for conforming use. Intent to resume active operations shall not affect the foregoing provision.

2. Land with Incidental Improvements

In all Residential Districts, a nonconforming use of land with incidental improvements shall be terminated three (3) years from the effective date of this ordinance and six (6) months after notification to the owner by the Building Inspector.

6.022 Noncomplying Building or Other Structures

A. General Provisions

The provisions of this article shall control buildings and other structures, including signs, which do not meet the bulk or any other provisions applicable in the districts in which they are located except those provisions which pertain to activity or use.

B. Continuation of Use

The use of a noncomplying building or other structure or parcel may be continued, except as otherwise provided by this article.

C. Repairs and Alterations

Repairs, incidental alterations, or structural alterations may be made in noncomplying buildings or other structures subject to the provisions of Subsections D and E, below.

D. Enlargements or Conversions

A noncomplying building or other structure may be enlarged or converted, provided that no enlargement or conversion may be made which would either create a new noncompliance or increase the degree of noncompliance of a building or other structure or parcel of any portion thereof.

E. Damage or Destruction of Noncomplying Uses

1. Permitted Reconstruction

In all districts, when a noncomplying building or other structure is damaged by any involuntary means to the extent of fifty (50) percent or more of its total floor area, such building or other structure may be reconstructed only in accordance with the applicable bulk regulations and other provisions of this ordinance.

2. Use of Alternate Formula

In any case where the applicant or the enforcing officer alleges that the floor area is an inappropriate measure of the extent of damage or destruction, and elects to substitute reconstruction costs for floor area, an application may be made to the Board of Zoning Appeals to determine the extent of such damage or destruction. The Board may grant such application permitting such building to be restored only if the Board finds that the estimated cost of restoring the damage or destroyed portion of such building is not greater than fifty (50) percent of the estimated cost of reconstructing the entire building. In determining reconstruction costs, the cost of land shall be excluded. Cost data used for the purpose of applying the provisions of this section shall be provided by the applicant and if such data is to the satisfaction of said Board, such Board shall permit the restoration.

6.030 EXCEPTION TO HEIGHT LIMITATIONS

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, transmission towers, windmills, chimneys, smokestacks, conveyors, flag poles, radio towers, masts and aerials.

6.040 LOTS OF RECORD

The following provisions shall apply to all existing lots of record:

- A. Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time of the adoption of this ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as in the opinion of the Board of Zoning Appeals as possible.

- B. No lot which is now or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this ordinance, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.
- C. Where two (2) or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one (1) or more building sites meeting the minimum requirements of the district in which they are located.

6.050 EXCEPTIONS TO FRONT SETBACK REQUIREMENTS

The front setback requirement of this ordinance for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred (100) feet, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

6.060 ABSOLUTE MINIMUM LOT SIZE

In no case shall the Building Inspector or the Board of Zoning Appeals permit any zone lot in a residential district to be used as a building site which is less than six thousand (6,000) square feet in the total area and thirty (30) feet in width at its narrowest point, or has a front setback of less than fifteen (15) feet and a side setback of less than five (5) feet, with the exception of officially approved planned development.

6.070 EXCEPTION TO LOT WIDTH REQUIREMENTS (Amended by Ordinance 336, August 16, 1999)

On any lot which directly adjoins any cul-de-sac or turn around area of any dead end street, the minimum lot width requirement as measured at the front building setback line may be reduced to two-thirds (2/3) of this minimum lot width requirement, as specified in the applicable zoning district.

ARTICLE VII

ADMINISTRATION AND ENFORCEMENT

SECTION

- 7.010 Administration of the Ordinance
- 7.020 The Enforcement Officer
- 7.030 Building Permits
- 7.040 Temporary Use Permits
- 7.050 Certificate of Occupancy
- 7.060 Procedure for Authorizing Special Exceptions
- 7.070 Board of Zoning Appeals
- 7.080 Variances
- 7.090 Amendments to the Ordinance
- 7.100 Penalties
- 7.110 Remedies
- 7.120 Separability
- 7.130 Interpretation
- 7.140 Effective Date

7.010 ADMINISTRATION OF THE ORDINANCE

Except as otherwise provided, no structure or land shall after the effective date of this ordinance be used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements adopted for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare of the community. Where other public ordinances, resolutions, or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances, resolutions, or regulations is mandatory.

7.020 THE ENFORCEMENT OFFICER

The provisions of this ordinance shall be administered and enforced by the Town Building Inspector. In performance of administering and enforcing this ordinance, he shall:

- A. Issue all Building Permits and make and maintain records thereof.
- B. Issue all Certificates of Occupancy and make and maintain records thereof.
- C. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records thereof.
- D. Maintain and keep current zoning maps and records of amendments, thereto.
- E. Receive, file and forward to the Board of Zoning Appeals all applications for variances or other matters on which the Board is required to act under the provisions of this ordinance.
- F. Conduct inspections as required in this ordinance and such other inspections as are necessary to insure compliance with the various other general provisions of this ordinance. The Building Inspector shall possess the right to enter upon any premises for the purpose of making inspections of said buildings or premises necessary to carry out his authorized duties.

7.030 BUILDING PERMITS

It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, including accessory structures, to use a building or structure, or to change the use of a building or structure, or to commence the filling of land without a permit thereof, issued by the Building Inspector.

No Building Permit shall be issued by the Building Inspector except in conformity with the provisions of this ordinance, unless there is received a written order from the Board of Zoning Appeals in the form of an administrative review, special exception, or variance as provided for by this ordinance.

- A. Application for a Building Permit shall be made in writing to the Building Inspector on forms provided for that purpose. All applications for Building Permits shall be accompanied by a plan or a plat in duplicate, drawn to scale, and showing the following: The actual shape, location, and dimensions of the lot to be built upon; the shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of buildings or other structures already on the lot and the elevation of the building site; the existing and intended use(s) of all such portions such buildings or other structures; and the location and design of off-street parking areas and off-street loading areas, and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

1. Single-Family and Two-Family Dwellings in Single Ownership

A Building Permit may be issued for a single-family dwelling or two family dwelling in single ownership, subsequent to the submittal and approval of the required information as cited in Section 7.030, A, above.

2. All Other Proposals for the Construction and Location of one or more Principal Structures on a Lot (Zone Lot)

A site plan must be approved by the Planning Commission, prior to the issuance of a Building Permit for all other proposals for the construction and location of one or more principal structures on any lot which contains the following information:

- a. Ten (10) copies of the information as cited in b, below, shall be submitted to the Town Clerk's Office no later than 11:00 a.m., seventeen (17) days prior to the next scheduled Planning Commission meeting.
- b. The required site plan shall exhibit the following information at no smaller scale than one (1) inch equals fifty (50) feet: contours at five (5) foot intervals; required automobile storage areas; servicing utilities with reference to location, size, availability, and compatibility; loading and unloading spaces; maneuvering areas; openings for ingress and egress to public streets; the total square footage of all proposed on-site buildings and structures as well as paved areas; the location of all on site landscaping and a tabular listing thereof; a proposed drainage

plan; the density of development or the required open space; the number of stories (all residential and commercial structures three (3) or more stories in height must have their plans approved by the State Fire Marshall's Office); the number of dwelling units per acre if applicable; all required building setbacks and other yard requirements; subsurface disposal test results where applicable; the location and type of buffering and screening; the location of servicing fire hydrants; the shape servicing fire hydrants; the shape of all structures on the lot; as well as a location map showing the relationship of the proposal drawn to scale, to other development, land uses, and streets.

c. A Letter-of-Credit or Performance Bond shall be provided when deemed necessary by the Planning Commission, to ensure the provision of all on-site improvements as follows:

- (1) All site plans presented for review and approval to the Planning Commission shall present the commission with a document indicating an intent to file a Performance Bond or Letter-of-Credit for improvements shown on the site in the amount of one hundred and ten (110) percent of the cost of said improvements. Such document shall be approved by the city engineer, or other specified city employee. It shall specify the amount of such bond or Letter-of-Credit by specific type of on and off-site improvements required, i.e., drainage requirements, landscaping, paving, utilities, etc.
- (2) Said improvements shown on the site plan may include, but are not limited to, existing road improvements, buffer strips, proposed road construction, parking aisles, parking spaces, driveways, sewer and water extensions or connections, tiles, culverts, drainage ways including catch basins, or any other improvements required by the Planning Commission before the site plan is approved.
- (3) The Performance Bond or Letter-of-Credit must be payable to the Westmoreland Mayor and Board of Aldermen.
- (4) The Performance Bond or Letter-of-Credit must be filed when the Building Permit is issued and retained for a period of one (1) year from the issuance of the Building Permit which pertains to the approved plot plan. If improvements have been made within the one (1) year period, the Mayor and Board of Aldermen may release the bond after the inspection of all required improvements, and approval of those improvements by the Planning Commission, or its authorized representative. If improvements have not been installed in a satisfactory manner, the Mayor and Board of Aldermen of the Town of Westmoreland shall retain and cash the Performance Bond to facilitate the completion of such improvements.

d. Any other supporting information as deemed necessary by the Planning Commission.

3. Expiration of Site Plan

The approval of any site plan granted under the provision of this section (Section 7.030) shall become expired in any situation when a Building Permit has not been officially obtained within one (1) year of the official approval of said site plan (the date wherein the Planning Commission approved said site plan). Any application for a Building Permit for any land use depicted on an approved site plan which is made beyond a year after the approval of such site plan shall be denied, and no such permit shall be granted until a new site plan is prepared and approved by the Planning Commission under all the terms established within Section 7.030, b, of this ordinance.

B. Fee

The Westmoreland Board of Mayor and Aldermen shall establish a schedule of fees and a collection procedure for Building Permits. The schedule of fees shall be posted in the office of the Building Inspector and/or zoning administrator and Town Hall. Only the Town Board may alter or amend the fee schedule. Until the appropriate fee has been paid in full, no action shall be taken on any application.

C. Issuance of Permit

If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this ordinance, the Building Inspector shall issue a Building Permit for such excavation or construction. If an application for a Building Permit is not approved, the Building Inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any of the provisions of this ordinance.

D. Construction Progress

Any Building Permit issued becomes invalid if work authorized by it is not commenced within six (6) months of the date of issuance or if the work authorized by the permit is suspended or discontinued for a period of one (1) year.

7.040 TEMPORARY USE PERMITS

It shall be unlawful to commence construction or development of any use of a temporary nature, unless a permit has been obtained from the Town Building Inspector, as provided for in Article IV, Section 4.030, of this ordinance. Application for a Temporary Use Permit shall be made in writing to the Building Inspector on the form provided for that purpose. A schedule of fees shall be established by the Westmoreland Board of Mayor and Aldermen. Such schedule shall be posted in the office of the Building Inspector and Town Hall. Until the appropriate fee has been paid in full, no action shall be taken on any application.

7.050 CERTIFICATE OF OCCUPANCY

No land or building or other structure or part thereof hereafter erected, moved, or altered in its use shall be used until the Building Inspector shall have issued a Certificate of Occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this ordinance. Within three (3) days after notification that a building or premises or part thereof is ready for occupancy of use, it shall be the duty of the Building Inspector to make a final inspection

thereof, and to issue a Certificate of Occupancy if the building or premises or part thereof is found to conform with provisions of this ordinance, or, if such certificate is refused, to state the refusal in writing with the cause for such refusal.

7.060 PROCEDURE FOR AUTHORIZING SPECIAL EXCEPTIONS

The following procedure is established to provide procedures for review of a proposed use by the Board of Zoning Appeals. The procedure shall be the same whether review is required by this ordinance, or whether a review is requested by the Building Inspector to determine whether a proposed use is potentially noxious, dangerous or offensive.

A. Application

An application shall be filed with the Board of Zoning Appeals for review. Said application shall contain the information required by Subsection 7.030, A, 2, above.

B. Criteria for Review

Prior to the issuance of a special exception, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provisions and arrangements have been made concerning all the following where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
2. Off-street parking and loading areas where required, with particular attention to the items in Item 1, above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
3. Refuse and service areas, with particular reference to the Items in 1 and 2, above.
4. Utilities, with reference to locations, availability, and compatibility.
5. Screening and buffering, with reference to type, dimensions and character.
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
7. Required yard and other open space.
8. General compatibility with adjacent properties and other property in the district.

C. Restrictions

In the exercise of its approval, the Board may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this ordinance.

D. Validity of Plans

All approved plans, conditions, restrictions, and rules made a part of the approval of the Board shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.

E. Time Limit

All applications reviewed by the Board shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.

7.070 BOARD OF ZONING APPEALS

In accordance with Section 13-7-205, Tennessee Code Annotated, a Westmoreland Board of Zoning Appeals, consisting of five (5) members, is hereby established. One of the members of the Board of Zoning Appeals shall be a member of the Planning Commission and one of the members shall be a member of the Board of Aldermen. All members of such Board shall be appointed by the Board of Aldermen.

A. Term of Office of Board Members, Removal, and Vacancies

The members of the Board of Zoning Appeals, except for the Planning Commission representative and the Board of Aldermen representative, shall serve for a three (3) year term, or until their respective successors are appointed and qualified. The Board first appointed shall serve respectively for the following terms: one for one (1) year, one for two (2) years, and one for three (3) years. The representatives on such Board from the Planning Commission and the Board of Aldermen shall serve coterminous with their terms of the Planning Commission and Board of Aldermen. All members of the Board of Zoning Appeals shall serve with such compensation as may be fixed by the Board of Aldermen and may be removed from membership on the Board of Zoning Appeals for continued absence or just cause. Any member being so removed shall be provided, upon his/her request, a public hearing upon the removal decision. Vacancies of said Board of Zoning Appeals shall be filled for the unexpired term of those members whose position has become vacant in the manner provided herein for the appointment of such member.

B. Procedure

Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, and at such other times as the Board may determine. Such Chairman or, in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.

C. Appeals to the Board

An appeal to the Westmoreland Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by, any decision of the Building Inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal specifying the

grounds thereof. The Building Inspector shall transmit to the Board all papers constituting the record upon which the action appealed was taken. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

D. Stay of Proceedings

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Zoning Appeals, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of competent jurisdiction on application, on notice to the Building Inspector, and on due cause shown.

E. Appeal to the Court

Any person or persons or any board, taxpayer, department, or bureau of the Town aggrieved by any decision of the Board may seek review by a court of competent jurisdiction of such decision in a manner provided by the laws of the State of Tennessee.

F. Powers of the Board

The Board of Zoning Appeals shall have the following powers:

1. Administrative Review

To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the Building Inspector and/or zoning administrator or other administrative official in the carrying out or enforcement of any provision of this ordinance.

2. Special Exceptions

To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the Zoning Map, and for decision on any special questions upon which the Board of Zoning Appeals is authorized to pass.

3. Variances

To hear and decide applications for variances from the terms of this ordinance.

7.080 VARIANCES

The purpose of a variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or

unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

A. Application

After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the Board of Zoning Appeals.

B. Fee

The fee of one hundred dollars (\$100.00) payable to the Town of Westmoreland shall be charged to cover partial review and processing of each application for a variance, except that the fee shall be waived for a governmental agency.

C. Hearings

Upon receipt of an application and fee, the Board shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The Board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.

D. Standards for Variances

In granting a variance, the Board shall ascertain that the following criteria are met:

1. Variances shall be granted only where special circumstances or conditions, fully described in the finding of the Board, do not apply generally in the district.
2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.
3. For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance. There must be a deprivation of beneficial use of land.
4. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.
5. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the persons applying therefore.

7.090 AMENDMENTS TO THE ORDINANCE

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed by the Board of Aldermen, of the Town of

Westmoreland. Any member of the Board of Aldermen may introduce such legislation, or any official, board, or any other person may present a petition to the Board of Aldermen requesting an amendment or amendments to this ordinance. These amendments must be in relation to the general welfare of the community.

No amendment to this ordinance shall become effective unless it shall have been proposed by or shall have first been submitted to the Westmoreland Municipal Planning Commission for review and recommendation. The Planning Commission shall have thirty (30) days within which to submit its report. If the Planning Commission disapproves the amendment within the thirty (30) days, it shall require the favorable vote of a majority of the Board of Aldermen to become effective. If the Planning Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment.

No change or departure from the text or maps as certified by the Planning Commission shall be made, unless such change or departure be first submitted to the Planning Commission and approved by it, or, if disapproved, received the favorable vote of a majority of the entire membership or the Board of Aldermen.

Before enacting amendment to this ordinance, the Board of Aldermen shall hold a public hearing thereon, at least fifteen (15) days notice of the time and place of which shall be published in a newspaper of general circulation in the Town of Westmoreland.

A. Fee

A fee of twenty-five dollars (\$25.00) due and payable at the time of filing of petition shall be posted with requests to amend the zoning ordinance. The fee is to be used by the Town of Westmoreland to defray costs resulting from such petition and any subsequent amendment of the zoning ordinance.

7.100 PENALTIES

Any persons violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violations continue shall constitute a separate offense.

7.110 REMEDIES

In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used, in violation of this ordinance, the Building Inspector or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may institute an injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, or reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

7.120 SEPARABILITY

Should any section, clause, or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be valid or unconstitutional.

7.130 INTERPRETATION

Whenever the conditions of this ordinance require more restrictive standards than are required in or under any other statute, the requirements of this ordinance shall govern. Whenever the conditions of any other statute require more restrictive standards than are required by this ordinance, the conditions of such statute shall govern.

7.140 EFFECTIVE DATE

This ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

Certified by the Westmoreland Municipal Planning Commission.

March 26, 1984
Date

Thomas F. Carter
Dr. Thomas F. Carter, Chairman
Westmoreland Municipal Planning Commission

Approved and adopted by the Board of Aldermen of the Town of Westmoreland, Tennessee.

July 16, 1984
Date

Wayne Bentle
Wayne Bentle, Mayor
Westmoreland, Tennessee



**SUBDIVISION REGULATIONS
WESTMORELAND, TENNESSEE**

JULY, 1998

LAST AMENDED: OCTOBER 18, 2007

**DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT
LOCAL PLANNING OFFICE
SUITE 128
446 METROPLEX DRIVE
NASHVILLE, TENNESSEE 37211-3139**

**TELEPHONE: (615) 741-1534
FAX (615) 532-1896**

TABLE OF CONTENTS
WESTMORELAND SUBDIVISION REGULATIONS

	<u>PAGE</u>
ARTICLE 1 GENERAL PROVISIONS	1
1-101 Title	1
1-102 Authority	1
1-103 Jurisdiction	1
1-104 Policy and Purpose	1
1-105 Interpretation, Conflict, and Severability	2
1-106 Saving Provision	3
1-107 Amendments	4
1-108 Resubdivision of Land	5
1-109 Conditions	5
1-110 Vacation of Plats	5
1-111 Variances	6
1-112 Enforcement, Violation and Penalties	6
1-113 Repeal of Previous Regulations	9
1-114 Specific Statutory Remedies	9
ARTICLE 2 PROCEDURES FOR PLAT APPROVAL	10
2-101 General Procedure	10
2-102 Sketch Plat	13
2-103 Preliminary Plat (Major Subdivisions Only)	14
2-104 Final Subdivision Plat (Minor and Major Subdivisions)	16
2-105 Signing and Recording of Subdivision Plat	19
ARTICLE 3 ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS	21
3-101 Improvements and Performance Bond	21
3-102 Inspection Improvements	23
3-103 Maintenance of Improvements	24
3-104 Deferral or Waiver of Required Improvements	24
3-105 Escrow Deposits for Lot Requirements	24
3-106 Issuance of Building Permits and Certificates of Occupancy	25
ARTICLE 4 REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS AND DESIGN	26
4-101 General Requirements	26
4-102 Lot Requirements	30
4-103 Public Ways	33
4-104 Road Construction Specifications	43

TABLE OF CONTENTS (CONTINUED)

	<u>PAGE</u>
4-105 Drainage and Storm Sewers	43
4-106 Water Facilities	46
4-107 Sewage Facilities	48
4-108 Pedestrian Ways	50
4-109 Utility Easements	51
4-110 Public Uses	51
4-111 Preservation of Natural Features and Amenities	53
4-112 Nonresidential Subdivisions	53
ARTICLE 5 SPECIFICATIONS FOR DOCUMENTS TO BE SUBMITTED	54
5-101 Sketch Plat	54
5-102 Preliminary Plat	54
5-103 Construction Plans	57
5-104 Final Subdivision Plat	60
ARTICLE 6 DEFINITIONS	68
6-101 Usage	68
6-102 Words and Terms Defined	68
ARTICLE 7 ADOPTION OF REGULATIONS AND AMENDMENTS	77
7-101 Original Enactment	77
APPENDIX A SPECIFICATIONS FOR STONE BASE HOT ASPHALTIC MIXTURE SURFACE	Appx. A-1
I. GENERAL	Appx. A-2
A. Jurisdiction	Appx. A-2
B. Purpose	Appx. A-2
C. Definitions	Appx. A-2
D. Approvals	Appx. A-2
E. Acceptance	Appx. A-3
F. Responsibility for Compliance	Appx. A-3
II. PLANNING	Appx. A-4
A. Plan Preparation	Appx. A-4
B. Content	Appx. A-4
C. Submission, Review, and Approval	Appx. A-4
D. Action Upon Approval	Appx. A-4

TABLE OF CONTENTS (CONTINUED)

	<u>PAGE</u>
III. TYPICAL SECTIONS	Appx. A-5
DRAWING A-1 - Reinforced Concrete Headwall	Appx. A-6
DRAWING A-2 - Area Drain	Appx. A-7
DRAWING A-3 - Straight Endwall for Circular Pipe	Appx. A-8
DRAWING A-4 - Straight Endwall for Pipe Arch	Appx. A-9
DRAWING A-5 - Mitered Headwall	Appx. A-10
DRAWING A-6 - Concrete Lined Ditch	Appx. A-11
DRAWING A-7 - Typical Stabilized Ditch Section	Appx. A-12
DRAWING A-8 - With Open Ditch/With Extruded Curb	Appx. A-13
DRAWING A-9 - Minor Residential Street/Collector Street	Appx. A-14
IV. MATERIALS SPECIFICATIONS AND CONSTRUCTION PROCEDURES	Appx. A-15
A. Preliminary Work	Appx. A-15
B. Roadway Construction	Appx. A-16
C. Base and Paving	Appx. A-19
D. Drainage System Design	Appx. A-21
E. Final Dressing, Seeding, and Sodding	Appx. A-24
APPENDIX B FORMS OF PERFORMANCE BONDS	Appx. B-1
Form No. 1 Performance Bond	Appx. B-2
Form No. 2 Irrevocable Documentary Letter of Credit	Appx. B-5

<u>DATE</u>	<u>RESOLUTION NO.</u>	<u>AMENDMENTS</u>
January 24, 2002	01-24-01	Amended Article 5, Subsection 5-102.2, Features, Subpart 21, Added New (b), existing (b), changed to (c), etc. - Subsection 5-104.2, Features, Added New Subpart (23), existing (23), changed to (24), etc., ending with (29) changed to (30).
November 11, 2004	11-11-04	Amended Article 5, Subsection 5-102.2, Features, Subpart 21, Added New (f). Amended Article 5, Subsection 5-103.2, Features, Added New (13), existing (13), renumbered to (14), through (18).
February 24, 2005	2-24-05	Amended Article 2, Subsection 2-103.1, Subpart 5, Deleted text in its entirety and added new text.
October 18, 2007	10-18-07	Amended Article 4, Subsection 4-106.2, Fire Hydrants, Deleted and added new text.

ARTICLE 1

GENERAL PROVISIONS

- 1-101 Title -- These regulations shall hereinafter be known and cited as the Subdivision Regulations of Westmoreland, Tennessee.
- 1-102 Authority -- These subdivision regulations are adopted by the Westmoreland Municipal Planning Commission (hereinafter referred to as "Planning Commission"), in pursuance of the authority and powers granted by Section 13-4-301 through 13-4-309, Tennessee Code Annotated. Having adopted a major street or road plan for the jurisdictional area, and filed a certified copy of the plan with the Sumner County Register of Deeds (hereinafter referred to as "county register"), as required by Section 13-4-302, Tennessee Code Annotated, and having held a public hearing as indicated in Section 1-107.1 of these regulations, the planning commission has fulfilled the requirements set forth in state law as prerequisites to the adoption of these regulations.
- 1-103 Jurisdiction -- These subdivision regulations shall apply to all subdivisions, as herein defined, located within the corporate limits of Westmoreland, Tennessee. No land shall be subdivided within the jurisdictional area until the subdivider submits a plat as required by these regulations, obtains planning commission approval of the plat, and files the approved plat with the county register.
- 1-104 Policy and Purpose -- It is hereby declared to be the policy of the planning commission to consider the subdivision of land and development of a subdivision plat as subject to the control of the adopted land use or community development plan (hereinafter referred to as "land development plan") of the jurisdictional area for orderly, planned, and efficient physical and economical development.

Land to be subdivided shall be of such character that it can be used for building purposes without danger of health, fire, flood, or other menace. Land shall not be subdivided until proper provisions have been made for drainage, water, sewerage, other public utilities, and for other required public services. The existing and proposed public improvements shall generally conform to and be properly related to the proposals shown in the land development plan.

The regulations herein shall supplement and facilitate the enforcement of the provisions and standards contained in the Westmoreland Zoning Ordinance (hereinafter referred to as "zoning ordinance").

These regulations are adopted for the following purpose:

- (1) To promote the public health, safety, and general welfare of the jurisdictional area.
- (2) To guide the development of the jurisdictional area in accordance with the land development plan, considering the suitability of nonresidential and public areas and having regard for the most beneficial land use in such areas.

- (3) To provide for adequate light, air, and privacy; to secure safety from fire, flood, and other dangers; and to prevent overcrowding of the land and undue congestion of population.
- (4) To enhance the character and economic stability and encourage the orderly, beneficial development of the jurisdictional area.
- (5) To conserve the value of land, buildings, and improvements throughout the jurisdictional area and to minimize detrimental conflicts among the uses of land and structures.
- (6) To guide public and private policy and action providing for transportation, water, sewerage, schools, recreational areas, and other public requirements and facilities.
- (7) To provide for the most beneficial relationship between the uses of land and buildings and the efficient traffic movement throughout the jurisdictional area.
- (8) To establish reasonable standards of design and procedures for subdivisions and resubdivisions; to further the orderly layout and use of land; and to insure proper legal descriptions and proper monumenting of land.
- (9) To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
- (10) To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to preserve the integrity, stability, beauty, and value of the jurisdictional area.
- (11) To preserve the natural beauty and topography of the jurisdictional area, and to insure appropriate development with regard to these natural features.
- (12) To provide for open spaces through efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in any zoning ordinance.
- (13) To encourage subdivision design which would maximize the conservation of all forms of energy.

1-105 Interpretation, Conflict, and Severability

- 1-105.1 Interpretation -- These regulations shall be held to be the minimum requirements for the promotion of health, safety, and general welfare.

1-105.2 Conflict with Public and Private Provisions

1-105.201 Public Provisions -- These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute, or other provisions of law. Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

1-105.202 Private Provisions -- These regulations are not intended to abrogate any easement, covenant, or any other private agreement or restriction; provided, that where these regulations are more restrictive or impose higher standards than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern.

Where any private provision exceed the standards set forth herein, such shall be considered a private contract between the parties of interest, and as such is beyond the jurisdiction of the planning commission.

1-105.3 Severability -- If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The planning commission hereby declares that it would have enacted the remainder of these regulations without any such part, provision, or application.

1-106 Saving Provision -- These regulations shall not be construed as abating any action not pending under, or by virtue of prior subdivision regulations; or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue; or as affecting the liability of any person; or as waiving any right of the governing body under any section or provision existing at the time of adoption of these regulations; or as locating or annulling any rights obtained by any person by lawful action of the governing body, except as expressly provided otherwise in these regulations.

1-106.1 Previously Approved Subdivisions

1-106.101 Unexpired Preliminary Approval -- The approval granted on any plat prior to the effective date of these regulations shall remain in force and effect for the time period stipulated by the regulations under which the approval was first granted.

1-106-102 Expired Preliminary Approval -- In any instance in which the period of preliminary approval shall have passed with some portion of the subdivision not having received final approval, and the applicant wishes an extension of the preliminary approval, the planning commission:

- (1) permit the remaining portion of the subdivision to be constructed and to receive approval under provisions set forth in the regulations whereby preliminary approval was originally granted, or
- (2) stipulate that the plat is null and void and that a new plat be presented subject to the provisions of these regulations.

In making this determination, the planning commission shall consider all pertinent facts available to it. The current state and active pursuit of construction and development activities within the subdivision shall be given due consideration in the course of the planning commission's deliberation on this question.

1-107 Amendments

1-107.1 Enactment -- For the purpose of providing for the public health, safety, and general welfare the planning commission may from time to time amend these regulations. Before the adoption of any amendment to these regulations, a public hearing thereon shall be held by the planning commission, as required in Section 13-4-303 within Chapter 4, Title 13, Tennessee Code Annotated.

1-107.2 Codification and Distribution -- Subsequent to the adoption of any amendment to these regulations, such amendment shall be incorporated into the text of these regulations in the following manner.

- (1) Replacement pages shall be prepared incorporating the new or changed language. Each such new or replacement page shall have the amendment number and shall be dated so as to indicate the date of the last revision of the page.
- (2) In Article 7 of these regulations, each adopted amendment shall be numbered consecutively and printed on pages separate from any other amendment and in a manner which fully states any language deleted from these regulations and any language added and the place in the text of each such change.

1-108 Resubdivision of Land

1-108.1 Procedures for Resubdivision -- If any change in an approved or recorded subdivision plat would affect the layout of any public street, alley, or road (hereinafter referred to as public way) shown on such plat, or area reserved thereon for public use, or any lot line, or if it would affect any map, plan, or plat legally recorded before the adoption of any subdivision regulations, such amendment shall be approved by the planning commission by the same procedure, rules, and regulations as for a subdivision.

1-108.2 Procedures for Subdivision Where Future Resubdivision is Foreseen -- Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land or double the minimum required area for any zoning district in which the lot is located, and the planning commission has reason to believe that any such lot(s) will be resubdivided into smaller buildings sites, the planning commission may require that the subdivision and development of such parcel of land allow for the future opening of public ways and the ultimate extension of adjacent public ways. The planning commission may also require that dedications providing for the future opening and extension of such public ways be indicated on the plat.

1-109 Conditions -- Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision are exercises of valid police power delegated by the state to the planning commission. The developer has the duty of compliance with reasonable conditions imposed by the planning commission for design, dedication, improvement, and restrictive use of the land so as to provide for the physical and economical development of the jurisdictional area and for the safety and general welfare of future plot owners in the subdivision and of the community at large.

1-110 Vacation of Plats -- Any plat or any part of any plat may be vacated by the owner of the premise, at any time before the sale of any lot described therein, by a written instrument, to which a copy of such plat shall be attached, declaring the plat or part of the plat to be vacated. The planning commission shall follow the same procedure for approval of such instrument as required for approval of plats. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, or public ways. Such an instrument shall be executed, acknowledged, or approved, and duly recorded or filed; the instrument shall operate to void the recorded plat and divest all public rights in the public ways and public grounds and all dedications laid out or described in such plat. When any lot or lots have been sold the plat may be vacated in the manner herein provided only if all the owners of lots in such platted area join in the execution of such writing.

1-111 Variances

1-111.1 General -- If the planning commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations, a variance from these regulations may be granted; provided, such variances shall not have the effect of nullifying the general intent and purpose of these regulations and provided, further, that the planning commission shall not recommend variations unless it shall make findings based upon written evidence presented to it in each specific case that:

- (1) the granting of the variance will not be detrimental to the public safety, health, or welfare, or be injurious to other property or improvements in the neighborhood in which the property is located;
- (2) the conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;
- (3) because of the particular physical surroundings, shape, or topographical condition of the specific property involved, a particular hardship (not self-imposed) to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out; and
- (4) the variance will not in any manner alter the provisions of the land development plan, the major street or road plan, or any zoning ordinance.

Where the planning commission concludes that the purpose of these regulations may be specifically served to an equal or greater extent by an alternative proposal, condition, or circumstance, it may approve other variations to these regulations.

1-111.2 Procedures -- In approving any variation from these regulations the planning commission shall state fully in the minutes the grounds for the variation and all of the facts upon which the decision is made.

1-111.3 Conditions -- In approving variations, the planning commission may impose such conditions as in its judgment will secure substantially the objectives, standards, and requirements of the regulations.

1-112 Enforcement, Violation, and Penalties

1-112.1 General

1-112.101 Authority -- The enforcement of these regulations and the penalties for violations are provided pursuant to Title 13, Tennessee Code Annotated.

- 1-112.102 Enforcing Officer -- It shall be the duty of the Building Inspector (hereinafter referred to as "the enforcing officer") to enforce these regulations and to bring to the attention of legal counsel any violations or lack of compliance herewith.
- 1-112.103 Recording of Plats -- Pursuant to Section 13-4-302 Tennessee Code Annotated, no plat of a subdivision of land within the jurisdictional area shall be received or recorded by the county register until the plat has received final approval of the planning commission in accordance with these regulations, and such approval has been endorsed in writing on the plat by the planning commission secretary in the manner prescribed by Section 2-105 of these regulations.
- 1-112.104 Use of Unapproved Plats -- Pursuant to Sections 13-4-306, Tennessee Code Annotated, no owner or agent of the owner of any land shall transfer or sell, or agree to sell such land by reference to or exhibition of, or by any other use of a plat of a subdivision of such land without first having submitted a plat of such subdivision to the planning commission and obtained its approval as required by these regulations, and having recorded such plat in the office of the county register.
- 1-112.105 Public Ways and Utilities -- Pursuant to Sections 13-4-307, Tennessee Code Annotated, the governing body shall not nor shall any public authority accept, lay out, open, improve, grade, pave, or light any public way, lay or authorize the laying of water mains or sewers, or construct or authorize the construction of other facilities or utilities in any public way located within the jurisdictional area unless such way shall have been accepted, opened, or otherwise received the legal status of a public way prior to the attachment of the planning commission's jurisdiction, or unless such way corresponds in its location and lines to a way shown on a subdivision plat approved by the planning commission or on a public way plat made by the planning commission.

However, the governing body may override the planning commission by a majority of its entire leadership as provided in Title 13, Tennessee Code Annotated.

In case of any state highway constructed or to be constructed within the jurisdictional area with state funds as a part of the state highway system, the submission to the planning commission shall be by the Tennessee Commissioner of Transportation, who shall have the power to overrule the disapproval of the planning commission.

- 1-112.106 Building Permits -- No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of any provision of these regulations.

- 2.107 Access to Lots by Public Way or Private Easement -- Pursuant to Section 13-4-308, Tennessee Code Annotated,

no building permit shall be issued and no building, or structure shall be erected on any lot within the jurisdictional area, unless the public way giving access to the lot upon which the building or structure is proposed to be placed shall have been accepted or opened or shall have otherwise received the legal status of a public way as provided by law.

Provided, however that when a permanent easement to a public street is used as access to a lot or tract of land being separated by plat from other property, such easement shall be at least 50 feet in width and shall not be used to provide access to more than one lot or tract of land.

The following standards shall apply to all permanent easements being used to provide access to one lot or tract of land:

- (1) easement shall not be legally used by more than two property owners.
- (2) no easement shall exceed 1,500 feet in length.
- (3) driveway on easement shall be constructed to minimize erosion or rapid deterioration.
- (4) the topography of the easement shall be kept to a minimum and must be able to provide true access to the property.
- (5) maintenance of the easement shall be the responsibility of the property owners. The legal documents establishing the easement and ensuring maintenance of the easement shall be submitted with the final plat for review and approval, and shall be recorded with the final plat.
- (6) all required utility easements shall be located outside the 50 foot roadway easement.
- (7) any further subdividing on the easement shall require the development of a public road and meet all road standards and other requirements as stated in these regulations.

The above section shall not be construed to prohibit the development of buildings on lots or tracts with permanent access provided by private ways when such development is in the form of condominium ownership of such private improvements which have been approved by the planning commission and will be in private ownership and control in perpetuity.

- 1-112.201 Recording of Unapproved Plats -- Any county register receiving, filing, or recording a plat of a subdivision in violation of Section 1-112.103 of these regulations shall be deemed guilty of a misdemeanor, punishable as other misdemeanors as provided by law.
- 1-112.202 Use of Unapproved Plats -- Any owner or agent of the owner of any land who violates Section 1-112.104 of these regulations shall be deemed guilty of a misdemeanor, punishable as other misdemeanors as provided by law.
- 1-112.3 Civil Enforcement -- Appropriate actions and proceedings may be taken in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages; to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premise; these remedies shall be in addition to the penalties described in Section 1-112.2 of these regulations.
- 1-113 Repeal of Previous Regulations -- Upon the adoption and effective date of these regulations, the Subdivision Regulations of Westmoreland, Tennessee, are hereby repealed.
- 1-114 Specific Statutory Remedies
- 1-114.1 Use of Unapproved Plats -- The city through its attorney or other official designated by the city commission may enjoin by action of injunction any transfer of sale of, or agreement to sell any land in violation of these regulations.
- 1-114.2 Erection of Unlawful Buildings --Where any building or structure is erected or being erected on any lot in violation of the road or permanent easement frontage requirements of these regulations the enforcing officer or city attorney, or other official designated be the city commission, may bring action to enjoin such erection, or cause the building or structure to be vacated or removed.
- 1-114.3 Enforcement of Bonds -- Where a bond or surety instrument is accepted in lieu of completion of subdivision improvements and utilities as provided in these regulations, the city may enforce such bond or surety instrument in the manner prescribed by Article 3 of these regulations utilizing appropriate legal and equitable remedies.

ARTICLE 2
PROCEDURES FOR PLAT APPROVAL

2-101 General Procedure

2-101.1 Plat Approval Requirements -- Before any contract is executed for the sale of any parcel of land which is proposed to be subdivided and before any permit for the erection of any structure in a proposed subdivision shall be granted, the subdividing owner or his authorized agent shall apply for and secure the planning commission's approval of the proposed subdivision in accordance with the procedures of this article.

2-101.2 Classification of Subdivisions -- The planning commission shall classify each subdivision proposal as either major or minor as defined herein.

2-101.201 Review Procedure -- The subdivider shall follow the procedure described below in order to secure plat approval

(1) Minor Subdivision (See Definition in Article 6)

- (a) Pre-application conference with the enforcing officer including submittal of a scale drawing or survey of the proposed subdivision for preliminary discussion and review.
- (b) Submittal of a final plat, prepared in accordance with the specifications in Section 5-104, herein, for approval by the planning commission.

(2) Major Subdivision (See Definition in Article 6)

- (a) Pre-application conference on the subdivision with the planning commission and/or staff assistant to the planning commission, generally including a sketch plat, and discussion of the proposed area to be subdivided.
- (b) Submittal of the preliminary plat, prepared in accordance with Section 5-102, herein for planning commission approval.
- (c) Securing of approval from other public agencies.
- (d) Submittal of the final subdivision plat, prepared in accordance with Section 5-104, herein for planning commission approval.

2-101.3 Official Submission Date -- For the purpose of these regulations, for both major and minor subdivisions, the date of the regular meeting of the planning commission at which the public hearing on the final subdivision plat, including any adjourned date thereof, is closed, shall constitute the official submittal date of the plat at which the statutory period required in Section 13-4-304, Tennessee Code Annotated, for formal approval or disapproval of the plat shall commence.

2-101.4 Policy on Flood-prone Areas -- In determining the appropriateness of land subdivision at any site containing a flood-prone area, the planning commission, in reviewing any plat, shall consider the policy and purpose set forth in Section 1-104 of these regulations and, additionally:

- (1) the danger to life and property due to the increased flood heights or velocities, either potential or actual, caused by subdivision fill, roads, and intended uses;
- (2) the danger that intended uses or improvements may be swept onto other lands or downstream to the injury of others;
- (3) the adequacy of proposed water supply, sanitation, and drainage systems, and the ability of these systems to function under flood conditions;
- (4) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage upon the individual owner;
- (5) the importance of the services provided by the proposed facility to the community at large;
- (6) the requirements of the subdivision for a waterfront location;
- (7) the availability of alternative locations not subject to flooding for the proposed subdivision and land uses;
- (8) the compatibility of the proposed uses with existing development or development anticipated in the foreseeable future;
- (9) the relationship of the proposed subdivision to the land development plan and the floodplain management program for the area;
- (10) the safety of access to the property for emergency vehicles in times of flood;
- (11) the expected heights, duration, velocity, rate of rise, and sediment transport of the floodwaters expected at the site;

- (12) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, public ways, and bridges; and
- (13) the effect of the proposed subdivision upon the governing body's participation in the National Flood Insurance Program, if such governing body is, or elects to be, in the program.

No subdivision or part thereof shall be approved by the planning commission if proposed subdivision levees, fills, structures, or other features will individually or collectively, increase flood flows, heights, duration, or damages. The regulatory limits (the one hundred-year flood level) shall be determined from the latest approved flood study for the jurisdictional area, and any subsequent revisions thereto. Specific engineering studies are to be formulated by the developer in those areas in which flood data are not currently available, if deemed necessary by the planning commission.

In any instance in which the planning commission determines that a proposed subdivision may affect the flood height, velocity, or duration in any flood-prone area outside its jurisdiction, the commission shall take all actions necessary and proper to ensure the coordinated review of the development with the appropriate governmental agencies of the affected area.

In approving plans for subdivision of land containing flood-prone areas, the planning commission shall ensure that development will proceed in such a way that property lying within any floodway, as defined by these regulations, will be maintained in a manner as prescribed by the Westmoreland Zoning Ordinance. The planning commission shall also ensure that development within any floodway fringe area (within the one hundred-year flood level) will be protected adequately against potential flood hazards by the methods prescribed in Article 4 of these regulations.

The planning commission shall disapprove the subdivision of any land containing a flood-prone area when the commission determines that subdivision plans are not consistent with the policy stated in this section.

2-101.5 Special Provisions Governing Unit Ownership (Condominium) Subdivisions

2-101.501 General Provisions

- A. Intent -- This section is intended to augment the general legislation of Sections 66-27-101 through 66-27-123, Tennessee Code Annotated, entitled "Horizontal Property Act," by providing supplemental

rules and regulations for the implementation of the act, as specifically authorized in Sections 66-27-121, Tennessee Code Annotated.

- B. Applicability -- Whenever a developer, the sole owner, or the co-owners of a building or buildings expressly declare through the submission of a master deed, lease, or plat their desire to submit their property to a regime, as established and provided by Sections 66-27-101 through 66-27-123, Tennessee Code Annotated, wherein there is established a horizontal property regime, each such condominium horizontal property regime created under the authority of these provisions for the purpose of sale or transfer of real property is subject to the provisions of these regulations.

- 2-101.502 Submission of Plat Required -- Prior to the sale or transfer of any property incorporated in the property regime, the developer, sole owner, or co-owners of such property shall submit to the planning commission a subdivision plat of such property in the manner prescribed by this article; such plat, if approved, shall be filed with the county register in the manner prescribed by this article.
- 2-101.503 Determination of Subdivision Type -- Condominium subdivisions shall be classified by the planning commission during the plat review process as either horizontal condominiums or vertical condominiums as defined in Article 6 of these regulations.
- 2-101.504 Procedure -- An applicant seeking approval of a condominium subdivision shall proceed through the normal procedure for subdivision approval, as set forth in this article.
- 2-101.505 Contents of Plans and Documents -- The plats, plans, and documents submitted by an applicant seeking approval of condominium subdivision shall conform with the specifications set forth in Article 5 of these regulations.

2-102 Sketch Plat

- 2-102.1 Purpose of Sketch Plat -- The planning commission shall require a sketch plat from the developer for a pre-application conference with the planning commission. The sketch plat is to be a concept plan for design purposes and should be used to discover all factors which may have an impact on the proposed development and to advise the subdivider of various possibilities before substantial amounts of time and money have been invested in a very detailed proposal which may contain elements contrary to these regulations.

- 2-102.2 Sketch Plat Requirements -- The sketch plat shall include the information set forth in Section 5-101.
- 2-102.3 Approval of Sketch Plat -- When a sketch plat is submitted for planning commission approval, the number of copies required and timing of the submission shall be as for a preliminary plat. Approval of the plat shall constitute authorizations to prepare detailed plans and specifications.
- 2-102.4 Expiration of Approval -- The approval of the sketch plat shall expire within one year if no other progress is made toward the development. An extension may be granted upon proper application.
- 2-103 Preliminary Plat (Major Subdivisions Only)
- 2-103.1 Application Procedure and Requirements -- The applicant shall file with the planning commission a preliminary plat. The failure of the applicant to satisfy the requirements of this section with full and correct information shall be cause for disapproval of a preliminary plat. The preliminary plat shall be prepared in accordance with Section 5-102 and:
- (1) be presented at the office of the chief enforcing officer;
 - (2) include all land which the applicant proposes to subdivided and all land immediately adjacent, extending two hundred (200) feet therefrom, or of that directly opposite thereto, extending two hundred (200) feet from the public way frontage of such opposite land. The lot pattern of surrounding development shall be shown within that area located within two hundred (200) feet of the proposed development;
 - (3) be accompanied by a minimum of nine (9) copies of the preliminary plat as described herein;
 - (4) be accompanied by a minimum of four (4) copies of construction plans as described in Section 5-103, of these regulations; and
- Note** - Please note that construction plans may be filed concurrently with the preliminary plat, but must be approved by the city engineer in all cases prior to the official consideration of the final plat.
- (5) be presented to the Town Recorder no later than 11:00 a.m., the Monday prior to the next scheduled meeting of the Planning Commission for review and consideration at the following month's meeting. **(Amended by Resolution No. 2-24-05, February 24, 2005)**

2-103.2 Administrative Review -- An administrative review meeting shall be conducted on the preliminary plat, construction plans, and any exhibits submitted in conformance with these regulations. This review shall include the staff assistant to the planning commission and any other appropriate governmental representative. The review shall be held prior to the regularly scheduled planning commission meeting at which the plat is to be reviewed. The findings of the review committee shall be presented to the planning commission.

With expert assistance, as necessary, the subdivider shall prepare a report, on any proposed subdivision containing or abutting a flood-prone area. In all cases, wherein a portion of a subdivision encroaches on an unmapped watercourse as defined in Section 6-102 herein, a drainage easement shall be reserved on both sides of such channel extending five (5) times the width of said channel, unless a flood report as specified herein is approved by the planning commission requiring a lesser easement. Such report shall estimate the discharge of the regulatory flood; determine the specific flooding threat at the site of the proposed subdivision; and indicate whether the subdivision is located in a floodway or floodway fringe area by:

- (1) calculation of water surface elevations and regulatory flood protections based upon a hydraulic analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood;
- (2) computation of the floodway required to convey the regulatory flood without increasing natural flood heights of the regulatory flood more than one foot at any point; and
- (3) unless otherwise established, computation of increases in flood heights caused by any encroachment shall be based upon the reasonable assumption that there will be an equal degree of encroachment on both sides of the stream within that reach. No increase in flood storage attributable to encroachments on the floodplain of any river or stream shall be permitted in any one reach or for the cumulative effect of several reaches.

2-103.3 Notice of Hearing -- The planning commission shall hold a hearing as required by Chapter 4 of Title 13, Tennessee Code Annotated, on each plat brought before it.

2-103.4 Preliminary Approval -- After the planning commission has reviewed the preliminary plat, construction plans, exhibits, and the results of administrative review, the applicant shall be advised of any required changes. The planning commission shall approve, conditionally approve, or disapprove the preliminary plat within thirty (30) days after the date of the regular meeting of the planning commission at which the hearing on preliminary approval, including adjourned date thereof, is closed.

A certificate of preliminary approval shall be issued by the secretary of the planning commission, upon demand, and the applicant may proceed to apply for final subdivision plat approval in the manner prescribed by Section 2-104, of these regulations.

After the planning commission approves, conditionally approves, or disapproves the preliminary plat, one copy of the proposed preliminary plat shall be returned to the developer with the date of approval, conditional approval, or disapproval thereon. If a preliminary plat is disapproved the planning commission shall state specific reasons for disapproval which shall be entered into the minutes of the meeting.

Before the planning commission approves a preliminary plat showing land for any public use, the planning commission shall obtain approval for the land reservation from the governing body or appropriate governmental agency.

2-103.5 Effective Period of Preliminary Approval -- The approval of a preliminary plat shall be effective for a period of twelve (12) months, at the end of which time final approval of the subdivision plat must have been obtained from the planning commission, although the plat need not have been signed and filed with the county register. Any plat not receiving final approval within the period of time set forth herein shall be null and void, and the developer shall be required to submit a new plat for preliminary approval subject to the Westmoreland Zoning Ordinance and the subdivision regulations currently in effect.

2-103.6 Zoning Regulations -- Every plat shall conform to the Westmoreland Zoning Ordinance and subdivision regulations applicable at the time of proposed final approval, except that any plat which has received preliminary approval shall be exempt from any subsequent amendments to such zoning ordinance or these regulations rendering the plat nonconforming as to bulk, use, or development standards, provided, that final approval is obtained within the effective period of preliminary approval set forth in Section 2-103.5, herein.

2-104 Final Subdivision Plat (Minor and Major Subdivisions)

2-104.1 Application Procedure and Requirements -- A subdivider shall file with the planning commission a final plat. The plat shall be prepared in accordance with Section 5-104 and:

- (1) include the entire subdivision, or section thereof, for which final approval is sought;
- (2) be accompanied by a minimum of nine (9) copies of the final subdivision plat as described herein. Distribution of the copies shall be as in Section 2-103.1 herein.

- (3) comply substantially with the preliminary plat, where such plat is required;
- (4) be presented to the Town Recorder no later than 11:00 a.m., the Monday prior to the next scheduled meeting of the Planning Commission for review and consideration at the following month's meeting. **(Amended by Resolution No. 2-24-05, February 24, 2005);**
- (5) be accompanied by formal irrevocable offers of dedication to the public of all public ways and uses, utilities, parks, and easements, in a form approved by legal counsel, as applicable. (The subdivision plat shall be marked with a notation indicating the formal offers of dedication as shown in Article 5 of these regulations.);
- (6) be accompanied by a performance bond or letter of credit, if required, in a form satisfactory to legal counsel and in an amount satisfactory to the governing body upon recommendation by the appropriate governmental representative. It shall include provisions that the principal of the bond shall comply with all the terms of the resolution of final subdivision plat approval, as determined by the planning commission, including, but without limitations, the performance of all required subdivision and off-site improvements, and that all improvements and land included in the irrevocable offers of dedication shall be dedicated to the governing body free and clear of all liens and encumbrances on the premise(s);
- (7) be accompanied by written assurance from any public utility companies serving the area of the subdivision that necessary utilities will be installed and by proof that the applicant has submitted petitions in writing for the creation or extension of any utility districts as required by the planning commission upon preliminary plat approval; and
- (8) be accompanied, if the final plat contains open space, or recreational facilities, or if any portion of the site is in common ownership, by the following documentation for approval by the planning commission:
 - (a) plans for improvement and maintenance of the open space or facilities located thereon;
 - (b) articles of incorporation and bylaws of the co-owners association or other legal entity (where open space or facilities are to be deeded to a co-owners association or similar organization acting on behalf of the joint owners of said property) charged with improving or maintaining the open space or facilities, and declaration of covenants and restrictions pertaining to each and every property within the subdivisions; and

- (c) declaration of covenants and restrictions pertaining to open space and facilities which assure the continued use of said facilities for the purpose intended, where open space or facilities are to be retained by the developer.

2-104.2 Endorsement of Notations -- The notations and certifications required by Section 5-104.3, of these regulations to appear upon the final plat shall be endorsed by appropriate officials and other persons prior to application for final subdivision plat approval, except that the certificate of planning commission approval shall be signed at the time specified in Section 2-105 of these regulations.

2-104.3 Hearing and Decision on Final Plat -- The planning commission shall hold a hearing as required by Section 13-4-304, Tennessee Code Annotated, on each final plat brought before it. The planning commission shall, within thirty (30) days after submission of the plat, approve, modify, or disapprove the final subdivision plat by resolution, which shall set forth in detail any conditions to which the approval is subject or reasons for disapproval. The official date of submission for the purpose of the regulations shall be deemed to be the planning commission meeting date wherein the plat is first officially entertained.

The failure of the planning commission to act upon a plat within the prescribed time shall be deemed approval of the plat, and in such event, a certificate of approval, entitling the subdivider to proceed as specified in Sections 2-104.4 and 2-105, of these regulations shall be issued, upon demand, by the secretary of the planning commission. The applicant, however, may agree to an extension of the time for planning commission review.

One copy of the final subdivision plat shall be returned to the subdivider with the date of approval, conditional approval, or disapproval noted thereon.

2-104.4 Vested Rights -- No vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the secretary of the planning commission. All requirements, conditions, or regulations adopted by the planning commission, applicable to the particular subdivision or to all subdivision generally, shall be deemed a condition of approval for any subdivision prior to the time of the signing of the final plat by the secretary of the planning commission. Where the planning commission has required the installation of improvements prior to the signing of the final plat, the planning commission shall not modify unreasonably the conditions set forth in the resolution of final approval.

2-105 Signing and Recording of Subdivision Plat

2-105.1 Signing of Plat

- (1) When a bond is required, the secretary of the planning commission shall endorse approval on the plat after the bond has been approved by the planning commission and after all the conditions of the resolution pertaining to the plat have been satisfied.
- (2) When installation of improvements is required, the secretary of the planning commission shall endorse approval on the plat after all conditions of the resolution have been satisfied and all improvements satisfactorily completed. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the governing body as shown on certifications by the engineer or other appropriate governmental representative(s) that necessary land dedications and improvements have been accomplished.
- (3) When the conditions of this section are satisfied, the secretary shall sign the permanent reproducible original of the subdivision plat.

2-105.2 Recording of Plat -- It shall be the responsibility of the enforcing officer to file the plat with the county register's office within fifteen (15) days of the date of signature. Simultaneously, with the filing of the plat, the enforcing officer shall record the agreement of dedication together with such legal documents as shall be required to be recorded by legal counsel. The project applicant or subdivider shall pay the city all costs associated with the recordation of his or her respective final plat(s).

2-105.3 Sectionalizing Major Subdivision Plats -- Prior to granting final approval of a major subdivision plat, the planning commission may permit the plat to be divided into two (2) or more sections and may impose such conditions upon the filing of each section as it may deem necessary to assure the orderly development of the subdivision.

The planning commission may require that a performance bond be in such amount as is commensurate with the section or sections of the plat to be filed and may defer the remaining required performance bond principal amount until the remaining sections of the plat are offered for filing. The developer also may file irrevocable offers to dedicate public ways and improvements in the section offered to be filed and defer filing offers of dedication for

the remaining sections until such sections, subject to any conditions imposed by the planning commission, shall be granted concurrently with final approval of the plat. Such authorized sections must contain at least ten (10) percent of the total number of lots contained in the proposed plat unless a specific waiver of this requirements is granted by the planning commission.

ARTICLE 3

ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

3-101 Improvements and Performance Bond

3-101.1 Completion of Improvements -- Before the final subdivision plat is signed by the planning commission as specified in Section 2-105.1 of these regulations, all applicants shall complete, in accordance with the planning commission's decision and to the satisfaction of the engineer or the appropriate governmental representative, all public way, sanitary, and other improvements, including lot improvements on the individual lots of the subdivision, as required in these regulations and approved by the planning commission, and shall dedicate such improvements to the governing body free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

3-101.2 Surety Instrument -- The planning commission at its discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to the signing of the final subdivision plat by providing that, as an alternative, the applicant post a bond at the time of submission for final subdivision approval in an amount estimated by the planning commission as sufficient to guarantee to the governing body the satisfactory construction, installation, and dedication of the incompleted portion of required improvements.

The Planning Commission in its' discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to the signing of the final subdivision plat and may provide that, as an alternative, the applicant may post a bond or letter of credit at the time of application for final subdivision plat approval in an amount estimated by the Planning Commission as sufficient to secure to the government the satisfactory construction, installation, and dedication of the incompleted portion of required improvements. Said estimate shall include an additional ten (10%) over and above the cost of securing all necessary improvements to cover the rate of inflation over the bondable period. The performance bond or letter of credit also shall secure all lot improvements on the individual lots of the subdivision as required in these regulations.

Such performance bond shall comply with all statutory requirements and shall be satisfactory to the attorney, as appropriate, as to form, sufficiency, and manner of execution as set forth in these regulations. Accordingly, such performance bond must be officially filed and approved on Form Number 1 as illustrated in Appendix B of these regulations. Moreover, only corporate insurance companies authorized to do business in the State of Tennessee shall file such bonds with the community.

When a letter of credit is utilized it shall also be satisfactory to the attorney as to form, sufficiency, and manner of execution as set forth in these regulations. Accordingly, such letter of credit must be officially filed and approved on Form Number 2 within Appendix B of these regulations. Moreover, only commercial banks and federally chartered savings and loan associations located in Sumner or Davidson County, Tennessee shall be acceptable institutions for the issuance of documentary letters of credit as required for the purposes of these regulations.

It shall be the responsibility of the engineer to establish the total amount of all performance bonds or letters of credit. All such surety instruments shall be segregated into cost estimates for each specific type of improvements, i.e., streets, drainage, lot improvements, utilities, etc. (See required surety instrument form in Appendix B).

The period within which required improvements must be completed as assured through the use of a performance bond or letter of credit shall be specified by the Planning Commission in the resolution approving the final subdivision plat and shall be incorporated in the bond or letter of credit. This period shall be for one (1) year and shall not in any event exceed two (2) years from date of final approval. Moreover, whenever such bond or letter of credit is extended according to these regulations, the price of completing all bondable improvements must be reanalyzed and established by the Planning Commission in order that the surety instrument be adequate to cover the cost of all improvements. Again, an additional ten (10%) of the cost of securing all necessary improvements shall be added to this cost figure in order to insure that these improvements be properly installed in relation to the rate of inflation for the period of extension. Such bond or letter of credit shall be approved by the Commission or a designated representative as to amount, surety and conditions. The Planning Commission may recommend to the appropriate local legislative body, upon proof of difficulty, extension of the completion date set forth in such bond or letter of credit (normally a one (1) year period) for a maximum period of one (1) additional year. The legislative body may accept, at any item during the period of such bond or letter of credit, a substitution of principal or sureties on the bond or letter of credit upon the recommendation of the Planning Commission.

- 3-101.3 Temporary Improvements -- The applicant shall build and pay for all costs of temporary improvements required by the planning commission, and shall maintain them to a reasonable satisfaction for the period specified by the planning commission. Prior to construction of any temporary facility or improvement, the applicant shall file with the governing body a separate suitable bond for temporary facilities, which shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

- 3-101.4 Costs of Improvements -- All required improvements shall be made by the applicant at his expense. Any provisions for reimbursement by the governing body or any utility agency shall be stipulated clearly in the provisions of any bonds.
- 3-101.5 Governmental Units -- Governmental units to which these bonds and contract provisions apply may file, in lieu of said contract or bond, a certified resolution or ordinance from officers or agencies authorized to act in their behalf agreeing to comply with the provisions of this article.
- 3-101.6 Failure to Complete Improvements -- In subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the planning commission in the resolution approving the plat, the approval shall be deemed to have expired. In those cases in which a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the governing body thereupon may declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.
- 3-107.7 Acceptance of Dedication Offers -- Acceptance of formal offers of dedication of public ways, easements, and parks shall be by formal action of the governing body. Such action shall be in the form of a resolution recommended by the planning commission to the governing body. The approval by the planning commission of a subdivision plat shall not be deemed to constitute or imply an acceptance by the local government of any public way, easement, or other ground shown on the plat. The planning commission may require the plat to be endorsed with appropriate notes to this effect.
- 3-102 Inspection of Improvements
- 3-102.1 General Procedure -- The planning commission may provide for inspection of required improvements during construction and ensure their satisfactory completion. If the appropriate governmental representative finds upon inspection that any of the required improvements has not been constructed in accordance with the governing body's construction standards and specifications, the applicant shall be responsible for completing the improvements to the required standards. Whenever the cost of improvements is covered by a performance bond, the applicant and the bonding company shall be liable severally and jointly for completing said improvements according to specifications.
- 3-102.2 Release or Reduction of Performance Bond
- 3-102.201 Certificate of Satisfactory Completion - The governing body shall not accept dedication of required public improvements nor release nor reduce a performance bond until the engineer or appropriate governmental representative submits a certificate stating that all required improvements

have been satisfactorily completed, and that the layout and the line and grade of all public improvements are in accordance with the approved construction plans for the subdivision. Upon such approval and recommendation, the governing body, thereafter, may accept the dedicated improvements in accordance with the procedures set forth in Sections 1-112.106 and 3-101.7 of these regulations.

- 3-102.202 Reduction of Performance Bond -- A performance bond may be reduced upon actual dedication and acceptance of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat. In no event shall a performance bond be reduced below twenty-five (25) percent of the principal amount prior to final acceptance of all items covered under the bond.

- 3-103 Maintenance of Improvements -- The applicant shall be required to maintain all improvements including all lot improvements, until acceptance of the public improvements by the governmental body.

The applicant may be required to file a maintenance bond with the governing body prior to dedication, in an amount considered adequate by the engineer or appropriate governmental representative and in a form satisfactory to legal counsel in order to assure the satisfactory condition of the required improvements, including all lot improvements, for a period of one year after the date of acceptance of the public improvements by the governing body. The minimum amount of a maintenance bond pertaining to public ways shall not be less than twenty (20%) of the total amount of the surety bond filed with the to construct said public way.

- 3-104 Deferral or Waiver of Required Improvements -- The planning commission may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interest of the public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.

Whenever it is deemed necessary by the planning commission to deter the construction of any improvements required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the developer shall either pay his share of the costs of the future improvements to the governing body prior to signing of the final subdivision plat by the appropriate governmental representative(s) or post a bond or other surety instrument ensuring completion of said improvements upon demand of the governing body.

- 3-105 Escrow Deposits for Lot Improvements

- 3-105.1 Acceptance of Escrow Funds -- Whenever, by reason of the season of the year, any lot improvements required by these regulations cannot be performed, the enforcing officer nevertheless may issue a certificate of occupancy upon accepting a cash escrow deposit in an amount to be determined by the appropriate

governmental representative for the cost of such improvements; provided, there otherwise is no danger to the health, safety, or general welfare. The performance bond covering such lot improvements shall remain in full force and effect.

- 3-105.2 Procedures on Escrow Fund -- All required improvements for which escrow moneys have been accepted by the enforcing officer at the time of issuance of a certificate of occupancy shall be installed by the developer within a period of nine (9) months from the date of deposit and issuance of the certificate of occupancy. In the event that the improvements have not been installed properly at the end of the time period, the enforcing officer shall provide written notice of two (2) weeks to the developer requiring him to install the improvements, and in the event they are not installed properly, in the judgment of the enforcing officer, he may request the governing body to proceed to install or to contract for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit.

At the time of the issuance of the certificate of occupancy for which escrow moneys are being deposited, the applicant shall obtain and file with the enforcing officer, prior to obtaining the certificate of occupancy, a notarized statement from the purchaser(s) of the premise authorizing the enforcing officer to install the improvements at the end of the nine month period in the event the improvements have not been installed properly by the developer.

3-106 Issuance of Building Permits and Certificates of Occupancy

- (1) Where a performance bond has been required for a subdivision, or any section of a subdivision, no certificate of occupancy for any building in the subdivision or section thereof shall be issued prior to the completion and dedication of the improvements to the appropriate governmental unit, as required in the planning commission's resolution of final approval of the subdivision plat.
- (2) The extent of public way improvements shall be adequate for vehicular access by the prospective occupant and by police and fire equipment prior to the issuance of an occupancy certificate. The developer shall at the time of the dedication submit monies in escrow to the governing body in a sum to be determined by the appropriate governmental representative.
- (3) No building permit shall be issued for the final ten (10) percent of lots in a subdivision, or if ten (10) percent be less than two (2) lots, for the final two (2) lots of a subdivision, until all public improvements required by the planning commission's resolution of final plat approval have been fully completed, dedicated, and accepted by the governmental body.

ARTICLE 4

REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS, AND DESIGN

4-101 General Requirements

4-101.1 Conformance to Applicable Rules and Regulations -- In addition to the requirements established herein, all subdivision plats shall comply with all applicable laws, ordinances, resolutions, rules, or regulations, including, but not limited to:

- (1) all applicable provisions of Tennessee Law, regulations, or policy;
- (2) the Westmoreland Zoning Ordinance, any building and housing codes, and all other applicable laws or policies of the governing body;
- (3) the adopted general plan and major road or street (public way) plan;
- (4) the rules of the county health department and the Tennessee Department of Environment and Conservation;
- (5) the rules, as applicable, of the Federal Highway Administration or Tennessee Department of Transportation, if the subdivision or any lot contained therein abuts a non-local highway; and
- (6) the standards and regulations adopted by all other boards, commissions, and agencies of the governing body, where applicable.

Plat approval may be withheld if a subdivision is not in conformity with the above rules or with the provisions set forth in Section 1-104 of these regulations.

4-101.2 Self-Imposed Restrictions -- If the owner places restrictions on any of the land contained in the subdivision greater than those required by the Westmoreland Zoning Ordinance or these regulations, such restrictions or reference thereto shall be recorded with the county register on a separate form, along with the final subdivision plat.

4-101.3 Monuments -- The subdivider shall place permanent reference monuments on the subdivision as required herein and as approved by a licensed surveyor. Monuments shall be located and set as follows:

- (1) Monuments shall be located on public way right-of-way lines, at public way intersections, and sections, and at the beginning and ending points of curves. All monuments shall be spaced so as to be within sight of each other.

- (2) The external boundaries of a subdivision shall be monumented in the field by iron pins at least eighteen (18) inches long and five-eighths (5/8) inch in diameter. Such iron pins shall be completely surrounded by concrete to a minimum depth of twelve (12) inches. Such iron pins shall be located within the center of said concrete, which at a minimum shall be at least nine (9) inches in diameter throughout its entire depth. These monuments shall be placed not more than fourteen hundred (1,400) feet apart in any straight line and at all corners or breaks at each end of all curves, at the point where a curve changes its radius, at all angle points in any line, and at all angle points along a meander line, said points to be not less than twenty (20) feet back from the bank of any river or stream, except that when such corners or points fall within a public way or proposed future public way, the monuments shall be placed on the side line of the public way.
- (3) All internal boundaries and those corners and points not referred to in the preceding paragraph shall be monumented in the field by like monuments as described above. Such monuments shall be placed at each end of all curves, at a point where a river changed its radius, and at all angle points in any line. All lot corners not following on any of the above described points shall be marked by iron rods, pipe, or pins at least eighteen (18) inches long and five-eighths inch in diameter.
- (4) The lines of lots that extend to rivers or streams shall be monumented in the field by iron pins at least eighteen (18) inches long and five-eighths inch in diameter or by round or square iron bars at least eighteen (18) inches long. Such pins shall be placed at the point of intersection of the river or stream and lot line, with a meander line established not less than twenty (20) feet back from the bank of the river or stream.
- (5) All monuments and pins shall be properly set in the ground and approved by a licensed surveyor prior to the time the planning commission recommends approval of the final plat or release of the bond where bond is made in lieu of improvements.

4-101.4 Character of the Land -- Land which the planning commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which would be harmful to the safety, health, and general welfare of inhabitants of the land and surrounding areas shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the planning commission, upon recommendation of any staff assistant serving the planning

commission and/or other governmental representative, if any, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for such uses as will not involve such a danger.

Where protection against flood damage is necessary, in the opinion of the planning commission, flood-damage protection techniques may include, as deemed appropriate by the planning commission:

- (1) the imposition of any surety and deed restrictions enforceable by the planning commission to regulate the future type and design of uses within flood-prone areas;
- (2) flood-protection measures designed so as not to increase, either individually or collectively, flood flows, height, duration, or damages, and so as not to infringe upon the regulatory floodway;
- (3) installation of flood warning systems;
- (4) the use of fill, dikes, levees, and other protective measures; and
- (5) the use of flood-proofing measures, which may include:
 - (a) anchorage to resist flotation and lateral movement.
 - (b) fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - (c) reinforcement of walls to resist water pressures.
 - (d) use of paints, membranes, or mortars to reduce seepage through walls.
 - (e) addition of mass or weight to structures to resist flotation.

- (f) installation of pumps to lower water levels in structures.
- (g) construction of water supply and waste treatment systems so as to prevent the entrance of or contamination of flood waters.
- (h) installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures.
- (i) building design and construction to resist rupture or collapse caused by water pressure of floating debris.
- (j) installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent backup of sewage and storm water into buildings or structures.
- (k) location and installation of all electrical equipment, circuits, and appliances so that they are protected from inundation by the regulatory flood.
- (l) location of storage facilities for chemicals, explosives, buoyant material, flammable liquids, or other toxic materials which would be hazardous to the public health, safety, and welfare at or above the regulatory flood protection elevation, or design of such facilities to prevent flotation of storage containers or damage to storage containers which could result in the escape of toxic materials.

The acceptability of any flood-protection methods formulated by the subdivider or his agent shall be determined by the planning commission, which shall be guided by the policies set forth in Sections 1-104 and 2-101.4, of these regulations.

4-101.5 Subdivision Name -- The proposed name of the subdivision shall not duplicate or too closely approximate phonetically the name of any other subdivision in the area covered by these regulations. The planning commission shall have authority to designate the name of the subdivision which shall be determined at sketch or preliminary plat approval.

4-101.6 Street Signs, Property Numbering and Street Naming, and Traffic Control -- The planning commission shall have the authority to require developers constructing new streets or rights-of-way to install all needed Traffic Control Devices. These devices shall be at least the minimum design specified in the Tennessee Department of Transportation "Manual of Standard Traffic Control Devices." The installation of street name signs shall be the responsibility of the developer but must be of design as specified by the planning commission. All Street Naming and Property Numbering shall be completed in conformity with Westmoreland's

procedures for property numbering and street naming. The planning commission may require the subdivider to prepare a traffic study as cited in Section 4-103.101 and referenced in Section 5-104.3(k) herein. Such study shall be prepared by a licensed traffic engineer to determine the need for additional traffic control devices and public way improvements.

4-102 Lot Requirements

- 4-102.1 Lot Arrangement -- The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography, flood hazards, or other conditions in securing building permits to build on all lots in compliance with the Westmoreland Zoning Ordinance, and state and county public health department regulations, and in providing driveway access to buildings on such lots from an approved public way. No subdivision plat shall be approved which contains any lot which has not been approved as a building site by the Sumner County Health Department, when applicable. In all cases, all platted lots must be shown as being buildable lots. Any lot that cannot be shown as a buildable lot must be removed from the subdivision.

Where reasonably feasible lot arrangement shall be such that building sites will afford maximum utilization of energy conservation measures, such as providing for solar access purposes.

Where a lot in any flood-prone area must be improved to provide a building site free from flooding, such improvements shall be made outside the floodway by elevation or fill to at least the regulatory flood protection elevation (one hundred-year flood) for a distance extending at least twenty-five (25) feet beyond the limits of intended structures and, additionally, extending a sufficient distance to include areas for subsurface sewage disposal if the lot is not to be connected to a public sanitary sewer system. Any fill shall be protected against erosion by rip-rap, vegetative cover, or other methods deemed acceptable by the planning commission.

In nonresidential building sites outside a floodway but subject to flooding, the use of structural flood-proofing methods specified in Section 4-101.4 of these regulations, as an alternative to landfill, may be approved by the planning commission, as provided in Section 2-101.4, of these regulations.

- 4-102.2 Lot Dimensions -- Lot dimensions shall comply with the minimum standards of the Westmoreland Zoning Ordinance, where applicable. Where lots are more than double the minimum area required by the Westmoreland Zoning Ordinance, the planning commission may require that such lots be arranged so as to allow further subdivision and the opening of future public ways where they would be necessary to serve such potential lots, all in compliance with the Westmoreland Zoning Ordinance and these regulations. Where solar access is a primary consideration, side lot lines shall generally run from due north to due south, regardless of the resulting angle of incidence with a public way. A variation of

up to twenty-five (25) degrees east or west of this axis is permitted; further variations may be allowed, but only to provide a better public way or lot plan.

Dimensions of the corner lots shall be large enough to allow for erection of buildings, observing the minimum front-yard setback requirements from both public way rights-of-way.

No lot when subdivided shall have a greater width to depth ratio than "one to four" (1:4); therefore, the average depth of the lot shall be no greater than four times the average width of said lot, with the exception of lots fronting cul-de-sac turn around areas, or lots five (5) acres or greater in size. Lots that front such cul-de-sacs shall have no greater width to depth ratios than "one to five: (1:5), as measured along the average widths to depths of said lots.

Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, and as established in the Westmoreland Zoning Ordinance.

- 4-102.3 Building Setback Lines -- In the case of electric transmission lines where easement widths are not definitely established, a minimum building setback line from the center of the transmission line shall be established as follows:

<u>Voltage of Line</u>	<u>Building Setback</u>
46 KV	37 1/2 feet
69 KV	50 feet
161 KV	75 feet

- 4-102.4 Double Frontage Lots and Access to Lots

- 4-102.401 Double Frontage Lots -- Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials, or to overcome specific disadvantages of topography and orientation.

- 4-102.402 Access from Arterial or Collector Public Ways -- The planning commission may require that lots shall not derive access exclusively from arterial or collector public ways. Where driveway access from such public ways may be necessary for several adjoining lots, the planning commission may require that the lots be served by a combined access drive in order to limit possible traffic hazards. Driveways shall be designed and arranged so as to avoid requiring vehicles to back onto arterial or collector public ways.

4-102.5 Soil Preservation, Grading, and Seeding

- 4-102.501 Soil Preservation and Final Grading -- No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved construction plan of any subdivision

Topsoil shall not be removed from residential lots or used as spoil, but shall be redistributed so as to provide cover on the lots, cover between any sidewalks and curbs, and be stabilized by seeding or planting. There shall be at least six (6) inches of cover on the lots and at least four (4) inches of cover between any sidewalk and curb.

- 4-102.502 Lot Drainage -- Lots shall be laid out so as to provide positive drainage away from all buildings; individual lot drainage shall be coordinated with the general storm drainage pattern for the area.

- 4-102.6 Debris and Waste -- No cut trees, timber, debris, junk, rubbish, or other waste materials of any kind shall be buried in any land or left or deposited on any lot or public way at the time of the issuance of a certificate of occupancy for the lot, and removal of such waste shall be required prior to issuance of any certificate of occupancy. Neither shall any such waste be left nor deposited in any area of the subdivision at the time of expiration of the performance bond or dedication of public improvements, whichever is sooner.

- 4-102.7 Fencing -- Each subdivider or developer shall be required to furnish and install all fences wherever the planning commission determines that a hazardous condition exists. Such fences shall be constructed according to standards established by the planning commission, as appropriate, and shall be noted on the final plat as to height and required materials. No certificate of occupancy shall be issued for any affected lot until such fence improvements have been installed.

- 4-102.8 Water Bodies and Watercourses -- If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among the fees of adjacent lots. The planning commission may approve an alternative plan whereby the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a governmental responsibility.

No more than ten (10) percent of the minimum area of a lot required under the Westmoreland Zoning Ordinance may be satisfied by land which is under water. For the purpose of this ordinance under water shall be defined as any area shown on FEMA flood maps as being within a designated floodway, or any other permanent water body. Where a watercourse separates a buildable area of a lot from the public way by which it has access,

provisions shall be made for installation of culvert or other structure approved by the planning commission and no certificate of occupancy shall be issued for a structure on such a lot until the installation is completed and approved by the planning commission and/or the appropriate governmental representative.

4-103 Public Ways

4-103.1 General Requirements

- 4-103.101 Frontage on Improved Public Ways -- No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from either an existing public road (except as provided in Section 1-112.107 of these regulations) or, if any new street construction or improvement is involved, a street approved and dedicated as provided in Articles 2 and 3 of these regulations. Any such public way must be suitably improved to the standards required by this article or be bonded by a performance bond required under these regulations, with the roadway and right-of-way widths required by this article or the major street or road plan.

If on the advice of the Engineer or in the judgment of the planning commission there are potential safety hazards associated with the public way entrance into any proposed subdivision, it shall be the responsibility of the subdivider to have a traffic study prepared for such entrance and submitted to the planning commission for analysis prior to the consideration of the final plat. Such study shall be prepared by a registered traffic engineer. The findings of said study may be required to be incorporated into the final plat.

- 4-103.102 Grading and Improvement Plan -- Public ways shall be graded and improved to conform to the standards required by this section and shall be approved as to design and specification by the appropriate governmental representative in accordance with the specifications required herein. No surface shall be applied to the base of any proposed public way prior to the approval of the final plat of the subdivision or of the final approval of any section of the subdivision in question without having been properly inspected.

- 4-103.103 Improvements in Floodable Areas -- The finished elevation of proposed public ways subject to flood shall be no less than the regulatory flood protection elevation. The planning commission may require profiles and elevations of public ways to determine compliance with this requirement. All drainage structures shall be sufficient to discharge flood flows without increasing flood height. Where fill is used to

bring the finished elevation of any public way to the required elevation, such fill shall not encroach upon a floodway, and the fill shall be protected against erosion by rip-rap, vegetative cover, or other methods deemed acceptable by the planning commission.

4-103.104 Topography and Arrangement

- (1) All public ways shall be arranged so as to obtain as many of the building sites as possible at or above the grades of the public ways. Grades of public ways shall conform as closely as possible to the original topography. A combination of steep grades and curves shall not be permitted. Specific design standards are contained in Section 4-103.2 of these regulations.
- (2) The use of public ways running in a east-west direction and lots on a north-south axis is encourage for energy conservation of developments.
- (3) All public ways shall be properly integrated with the existing and proposed system of public ways and dedicated rights-of-way as established on the major street or road plan or the land development plan.
- (4) All public ways shall be properly related to special traffic generators, such as industries, business districts, schools, churches, and shopping areas or centers; to population densities; and to the pattern of existing and proposed land use.
- (5) Minor public ways shall be laid out to conform as much as possible to the topography; to discourage use by through traffic; to permit efficient drainage and utility systems; and to require the minimum ways necessary to provide convenient and safe access to property.
- (6) The use of curvilinear streets, cul-de-sac, or "U"-shaped streets shall be encouraged where such use will result in a more desirable layout.
- (7) Proposed public ways shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions or unless, in the opinion of the planning commission, such extension is not necessary or desirable for the coordination of the subdivision design with the existing layout or the most advantageous future development of adjacent tracts.

- (8) In business and industrial developments, public ways and other access routes shall be planned in connection with the grouping of buildings, location of rail facilities, and the provisions of alleys, truck loading and maneuvering areas, and walks and parking areas, so as to minimize conflict of movement between the various types of traffic, including pedestrian traffic.

4-103.105 Blocks

- (1) Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depth. Exceptions to this prescribed block width may be permitted in blocks adjacent to major public ways, railroads, or waterways.
- (2) The lengths, widths, and shapes of blocks shall be determined with due regard to:
 - (a) provisions of adequate building sites suitable to the special needs of the type of use contemplated;
 - (b) the Westmoreland Zoning Ordinance as to lot sizes and dimensions;
 - (c) needs for convenient access, circulation, control, and safety of vehicular and pedestrian traffic; and
 - (d) limitations and opportunities of topography.
- (3) Block lengths in residential areas shall not exceed sixteen hundred (1,600) feet nor be less than two hundred (200) feet, except as the planning commission deems necessary to secure efficient use of land or desired features of the public way pattern. Wherever practicable, blocks along arterial or collector routes shall not be less than one thousand (1,000) feet in length.
- (4) Blocks designed for industrial or commercial uses shall be of such length and width as may be deemed suitable by the planning commission.
- (5) In any long block, the planning commission may require the reservation of an easement through the block to accommodate utilities, drainage, facilities, and/or pedestrian traffic.

A pedestrian walkway, not less than ten (10) feet wide, may be required by the planning commission through the appropriate center of any block more than eight hundred (800) feet long, where deemed essential to provide circulation or access to a school, playground, shopping center, transportation facility, or other community facility.

4-103.106 Access to Arterials and Collectors -- Where a subdivision borders on or contains an existing or proposed arterial or collector route, the planning commission may require that access to such public way be limited by:

- (1) the subdivision of lots so as to back on the arterial or collector route and front on a parallel minor route;
- (2) a series of cul-de-sac, "U" shaped public ways, or short loops entered from and designed generally at right angles to such a parallel public way, with the rear lines of their terminal lots backing into the arterial or collector route; or
- (3) a marginal access or service public way, separated from the arterial or collector route by a planting or grass strip and having access thereto at suitable points.

The number of residential or local public ways entering on arterial or collector routes shall be kept to a minimum.

4-103.107 Reserve Strips -- The creation of reserve strips adjacent to a proposed public way in such a manner as to deny access from adjacent property to such public way shall generally not be permitted.

However, in extraordinary circumstances the planning commission may allow creation of a reserve strip to enable a more appropriate pattern of lots or public ways. Where such is created the planning commission must agree to any and all future depositions of same. A notation to this effect shall be entered on the final plat or approved as an auxiliary instrument attached thereto.

4-103.108 Arrangement of Continuing and Dead-end Public Ways

- A. Arrangement of Continuing Public Ways -- The arrangement of public ways shall provide for the continuation of major public ways between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities, and when such continuation is in accordance with the major

street or road plan. If the adjacent property is undeveloped and the public way must be a dead-end public way temporarily, the right-of-way shall be extended to the property line. A temporary cul-de-sac, turnabout shall be provided on all temporary dead-end public ways as required in the following turnabout standards, with a notation on the subdivision plat that land outside the normal public way right-of-way shall revert to abutting property owners whenever the public way is continued.

The planning commission may limit the length of temporary dead-end public ways in accordance with the design standards of these regulations.

- B. Dead-end Public Ways -- Where a public way does not extend beyond the boundary of the subdivision and its continuation is not required by the planning commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the planning commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnabout shall be provided at the end of a dead-end public way in accordance with the design standards of these regulations.

For greater convenience to traffic and more effective police and fire protection, permanent dead-end public ways shall, in general, be limited in length in accordance with the design standards of these regulations.

4-103.109 Construction Access Ways

Every effort shall be made by subdivision developers and contractors to utilize temporary, alternative construction entrances during the construction phase(s). Such access ways shall be exclusive of any public way(s) serving such subdivision(s). All vehicles involved in the development and construction of the respective subdivision(s) shall enter and exit such subdivision(s) strictly by way of the designated construction entrance(s). It shall be the responsibility of the planning commission to designate the location and number of such construction access route(s) servicing said subdivision(s). Furthermore, it shall be the prerogative of the planning commission to decide which subdivision(s) will be required to utilize separate construction entrances. Such

entrance(s) shall be specifically located on all preliminary plats and identified as such. The establishment and utilization of construction access ways does not in any way exempt the subdivision owner/developer from the posting of maintenance bonds or letters of credit as stipulated in Section 3-103 of these regulations.

Wherever access ways for construction vehicles intersect paved public roads, provisions must be made to minimize the transport of sediment (mud) by runoff or vehicles tracking onto paved surface by clearing the area at the entrance of all vegetation, roots, and other objectionable material and placing a gravel layer at least 6-inches thick for a minimum of fifty (50) feet from the edge of the hard surface public road. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day or more often if deemed necessary. Sediment shall be removed from roads by shoveling or sweeping and be transported to a sediment-controlled disposal area. Street washing shall be allowed only after sediment is removed in this manner.

4-103.2 Design Standards

4-103.201 Purpose -- In order to provide public ways of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, fire-fighting, sanitation, and road-maintenance equipment, and to coordinate public ways so as to compose a convenient and safe system and avoid undue hardships to adjoining properties, the public way design standards set forth in this section are hereby required. (Public way classification shall be as indicated on the land development plan or major street or road plan; otherwise, the public way shall be classified by the planning commission according to the definitions in Article 6 of these regulations).

4-103.202 General Design -- The general design of all public ways shall conform to the standards in the table on the following pages.

4-103.203 Intersections

- (1) Public ways shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new public ways at an angle of less than seventy-five (75) degrees shall not be permitted. An oblique public way should be curved

approaching an intersection and should be approximately at right angles for at least one hundred (100) feet therefrom. Not more than two (2) public ways shall intersect at any one point unless specifically approved by the planning commission.

- (2) Proposed new intersections along one side of an existing public way shall coincide, wherever practicable, with any existing intersections on the opposite side of such public way. Jogs within public ways having center line offsets of less than one hundred fifty (150) feet shall not be permitted, except where the intersected public ways have separated dual drives without median breaks at either intersection. Where public ways intersect arterial or collector routes, their alignment shall be continuous. Intersections of arterial or collector public ways shall be at least eight hundred (800) feet apart.
- (3) Minimum curb radius at the intersection of two (2) minor public ways shall be twenty-five (25) feet, and minimum curb radius at an intersection involving a collector public way shall be thirty (30) feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.
- (4) Where a public way intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the subdivider shall cut such ground or vegetation (including trees) in connection with the grading of the public right-of-way to the extent necessary to provide adequate site distance.
- (5) Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two (2) percent grade for a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting public way.
- (6) The cross-slope on all public ways, including intersections, shall be three (3) percent or less.

GENERAL DESIGN STANDARDS FOR PUBLIC WAYS

IMPROVEMENT	RESIDENTIAL PUBLIC WAY	NONRESIDENTIAL PUBLIC WAY (INDUSTRIAL, COMMERCIAL; OTHER)
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Minimum Right-of-Way Width (In Feet)

Minor	50	50
Collector	60	80
Arterial	80	100

Minimum Width of Roadway or Paved Area (In Feet) Not Including Parking Requirements

Minor	20	24
Collector	22	24
Arterial	24 or 36 (See * Below)	36 or 48 (See * Below)

Maximum Percentage Grade

Minor	12	7
Collector	7	6
Arterial	6	5

Pavement Crown

The paved surface shall have a 6 inch crown (2 1/2 percent slope from center line, or as otherwise specified by the engineer).

Minimum Center Line Radius of Curve (In Feet)**

Minor	100	200
Collector	200	200
Arterial	500	500

* As determined by the engineer or appropriate governmental representative.

** Applies where a deflection angle of 15 degrees or more in the alignment of pavement occurs.

GENERAL DESIGN STANDARDS FOR PUBLIC WAYS (continued)

IMPROVEMENT	PUBLIC WAY	NONRESIDENTIAL PUBLIC WAY (INDUSTRIAL, COMMERCIAL: OTHER)
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Minimum Length of Vertical Curves

Minor	100 feet, but not less than 20 feet for each algebraic difference in grade.	
Collector	100 feet, but not less than 20 feet for each algebraic difference in grade.	
Arterial	300 feet, but not less than 50 feet for each algebraic difference in grade.	

Minimum Length of Tangents Between Reverse Curves (In Feet)

Minor	100	200
Collector	100	200
Arterial	300	400

Minimum Sight Distance (In Feet)*

Minor	200	250
Collector	240	250
Arterial	300	400
Intersection	Across Corners-- 75 feet back	Across Corners-- 75 feet back

Minimum Turn around on Cul-de-sacs on Minor Public Ways (In Feet)

Right-of-way Diameter	100	110 **	160
Pavement Diameter	80	90 **	140

Length of Cul-de-sac

Permanent	Serving no more than 14 dwelling units and not exceeding 1,000 feet in length.	
Temporary	Serving no more than 26 dwelling units and not exceeding 1,500 feet in length.	

Minimum Radii (In Feet) of Return at Intersections

At right-of-way	25	30
At Pavement	30	50

* The sight distance is measured from a point 4 1/2 feet above the center line of the roadway surface to a point 4 inches above the center line of the roadway surface.

** On any cul-de-sac longer than 750 feet the turnaround dimension shall be increased as noted herein.

- 4-103.204 Excess Right-of-Way -- A slope easement in excess of the right-of-way designated in these regulations may be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be less than three (3) to one (1). Where solid rock is encountered slopes shall be one-half to one.
- 4-103.205 Railroads and Limited Access Highways -- Railroad rights-of-way and limited access highways, where so located as to affect the subdivision of adjoining lands, shall be treated as follows:
- (1) In residential areas, a buffer strip at least twenty-five (25) feet in depth in addition to the normally required depth of the lot may be required adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening; the placement of structures hereon is prohibited."
 - (2) In commercial or industrial areas, the nearest public way extending parallel or approximately parallel to the railroad shall, wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.
 - (3) Public ways parallel to a railroad, when intersecting a public way which crosses the railroad at grade, shall to the extent practicable, be at a distance of at least one hundred fifty (150) feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.
- 4-103.206 Bridges -- Bridges of primary benefit to the subdivider, as determined by the planning commission, shall be construed at the full expense of the subdivider without reimbursement from the governing body. The sharing of expenses for the construction of bridges not of primary benefit to the subdivider, as determined by the planning commission, shall be fixed by special agreement between the governing body and the subdivider. The cost shall be charged to the subdivider pro rata as to the percentage of his development so served.
- 4-103.3 Right-of-way Width Dedication on Existing Public Ways -- Where a subdivision adjoins an existing narrow public way or where the major street or road plan or any zoning setback provisions indicate plans for realignment or widening of a public way that would

require use of some of the land in the subdivision, the subdivider shall be required to dedicate, at his expense, areas for widening or realigning such public way as set forth below:

- (1) the entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing public way; or
- (2) when the subdivision is located on only one side of an existing public way, one-half of the required right-of-way, measured from the center line of the existing pavement shall be provided.

4-103.4 Public Way Surfacing and Improvements -- After underground utilities have been installed, the subdivider shall construct curbs or curbs with gutters, where required, and shall surface or cause to be surfaced public ways to the widths prescribed in these regulations. No public way shall be surfaced until final approval of the subdivision plat has been obtained. Surfacing shall be of such character as is suitable for the expected traffic. Types and methods of paving shall be according to the specifications of the governing body, but in no event shall such construction be below the construction specifications set forth in the Westmoreland Municipal Road Regulations in Appendix A of these regulations. Adequate provisions shall be made for culverts or other drains, and bridges, as required.

All public way pavements, shoulders, drainage improvements and structures, any curb turnabouts, and sidewalks shall conform to all construction standards and specifications adopted by the planning commission and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

4-104 Road Construction Specifications -- The road construction specifications, Specifications for Stone Base Hot Asphaltic Mixture Surface, are included in these regulations as the Westmoreland Municipal Road Regulations Appendix A, and are adopted as a part hereof. These specifications shall be the minimum standards for any subdivision within the jurisdictional area.

4-105 Drainage and Storm Sewers

4-105.1 General Requirements -- The planning commission shall not approve any plat of a subdivision which does not make adequate provisions for storm water or floodwater run-off channels or basins. The storm water drainage system shall be separate and independent from any sanitary sewer system.

4-105.2 Nature of Storm water Facilities

4-105.201 Location -- The subdivider may be required by the planning commission to transport by pipe or open ditch any spring or surface water that may exist either prior to or as a result of the subdivision. Such drainage facilities shall be located in

the public way right-of-way, where feasible, or in perpetual unobstructed easements or appropriate width and shall be constructed in accordance with the construction specifications contained in these regulations.

4-105.202 Accessibility to Public Storm Sewers

- (1) Where a public storm sewer is accessible, the developer shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the appropriate governmental representative; inspection of facilities shall be conducted to assure compliance. Inspection of facilities shall be conducted by the enforcing officer.
- (2) If a connection to a public storm sewer will be provided eventually, as determined by the planning commission, the subdivider shall make arrangements for future storm water disposal by a public system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the performance bond required for the final subdivision plat.

4-105.203 Accommodation of Upstream Drainage Areas -- A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. Necessary facilities shall be sized based on the construction specifications and assuming conditions of maximum potential watershed development permitted by any zoning ordinance.

4-105.204 Effect on Downstream Drainage Areas -- The governing body also shall study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the planning commission may withhold approval of the subdivision until provisions has been made for adequate improvement of such drainage facilities in such sum as the planning commission shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

4-105.205 Areas of Poor Drainage -- Whenever a plat is submitted for an area which is subject to flooding, the planning commission may approve such subdivision; provided, that the applicant fill the affected floodway fringe area of said

subdivision to place public way elevations at no less than the regulatory flood elevation and first floor elevations (including basements) at no less than one (1) foot above the regulatory flood elevation. At a minimum, the lot serving any principal structure located within the 100 year flood area (the regulatory floodplain area) shall be filled to the regulatory elevation for at least twenty-five (25) feet beyond the edge of said structure. The plat of such subdivision shall provide for a floodway along the bank of any stream or watercourse of width sufficient to contain or move the water of the regulatory flood, and no fill shall be placed in the floodway; neither shall any building nor flood restrictive structure be erected or placed therein. The boundaries of the floodway and floodway fringe area, and the regulatory flood elevation, shall be determined by the planning commission based upon the review specified in Section 2-103.2 of these regulations and the submission of flood data in construction plans as specified in Section 5-103 of these regulations.

- 4-105.206 Floodplain Areas -- The planning commission may when it deems it necessary for the health, safety, or welfare of the present and future population of the area or necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the floodplain of any stream or drainage course. The regulatory floodway shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps. Any subdivision which contains floodprone land shall be subject to the special provisions set forth in Sections 2-101.4; 4-101.4; 4-104; and 4-105.2, of these regulations.

4-105.3 Dedication of Drainage Easements

- 4-105.301 General Requirements -- Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and of such width and construction as will be adequate. Where open drainageways are utilized they shall be designed for the twenty-five (25) year frequency flood.

4-105.302 Drainage Easements

- (1) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within a public way right-of-way, perpetual unobstructed easements at least ten (10) feet in width for such facilities shall be provided across property

outside the public way lines and with satisfactory access to public ways. Whenever said easements are required which do not parallel lot lines they shall be twenty (20) feet in width. Easements shall be indicated on the preliminary and final plats. Drainage easements shall be carried from the public way to a natural watercourse or to other drainage facilities.

- (2) When a new drainage system is to be constructed which will carry water across private land outside the subdivision, appropriate drainage rights must be secured by legal document and indicated on the plat.
- (3) The applicant shall dedicate, when required by the planning commission, either in fee, or by drainage or conservation easement, the land on both sides of existing watercourse to a distance to be determined by the planning commission.
- (4) Along watercourses, low-lying lands and within any floodway, as determined by the planning commission pursuant to Section 2-103 of these regulations, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. (See Section 6-102 for a definition of low-lying lands and watercourses).

4-105.303 Ditching, Concrete Ditch Paving, and Culverts and Storm Drains -- The design and construction details of drainage facilities shall be in accordance with the provisions of these regulations. The design and construction details of all such facilities shall be approved by the engineer or appropriate governmental representative.

4-106 Water Facilities

4-106.1 General Requirements

- (1) Necessary action shall be taken by the developer to extend a water supply system capable of providing domestic water use and fire protection.
- (2) Where a public water main is within reasonable access of the subdivision, as determined by the planning commission, the subdivider shall install adequate water facilities, including fire hydrants, subject to construction and material specifications, approval of the governing body, the Tennessee Department of Environment and Conservation and these regulations.

- (3) Where required for fire protection water mains shall not be less than six (6) inches in diameter; where water mains are not to be utilized for fire protection, the planning commission may approve smaller lines, as necessary, to meet potable water demand.
- (4) All water systems, whether public or private, located in a floodprone area shall be floodproofed to the regulatory flood protection elevation. All water supply facilities located below the regulatory flood protection elevation shall be designed to prevent the infiltration of floodwaters into the water supply system and discharges from the system into floodwaters.
- (5) All water systems shall be constructed and tested by a contractor properly licensed to do so under Tennessee law.

4-106.2 Fire Hydrants -- Fire hydrants shall be required in all subdivisions; they shall be located no more than one thousand (1,000) feet apart by street and be within five hundred (500) feet of the building envelopes of any residential, commercial, or industrial structure as measured by the servicing streets. However, the planning commission may require closer spacing where physical conditions or types of structures so warrant. To eliminate future public way cuttings or openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, and all other water supply improvements shall be installed before any final paving of a public way shown on the subdivision plat, unless otherwise approved by the planning commission.

4-107 Sewage Facilities

4-107.1 General Requirements -- The applicant shall install sanitary sewer facilities in a manner prescribed by the regulations of the Tennessee Department of Environment and Conservation and by any other applicable standards and specifications. All plans shall be designed and approved in accordance with the rules, regulations, specifications, and standards, of any applicable governmental agency or appropriate unit thereof.

4-107.2 Mandatory Connection to Public Sewer System

- (1) When public sanitary sewers are within reasonable access of the subdivision, as determined by the planning commission, the subdivider shall provide sanitary sewer facilities to each lot therein and shall connect these facilities to the public system. The subdivider shall provide sewers which meet standards set forth in the regulations of the Tennessee Department of Environment and Conservation. Such sanitary sewers shall be extended to the farthest end of the lot(s) being served.

- (2) All sanitary sewer facilities located in a flood hazard area shall be floodproofed to the regulatory flood protection elevation. All sewer facilities located below the regulatory flood protection elevation shall be designed to prevent infiltration of floodwaters into the sewer system and discharges from the system into floodwaters.

- 4-107.3 Individual Disposal System Requirements -- If public sewer facilities are not available and individual disposal systems are proposed, lot areas shall not be less than the minimums specified in these regulations; all pertinent soil absorption tests shall be made as directed by the county environmentalist and the results submitted to the county health department for approval.

The individual disposal system, including the size of the septic tank and size of the tile fields or other secondary treatment device shall be located on the same platted lot as the dwelling unit serviced by said individual system, and shall also be approved by the county health department.

The planning commission may prohibit installation of sewage disposal facilities requiring soil absorption systems where such systems will not function due to high groundwater, flooding, or unsuitable soil characteristics. The planning commission may require that the subdivider note on the face of the plat and any deed of conveyance that soil absorption fields are prohibited in designated areas.

- 4-107.4 Design Criteria for Sanitary Sewers

- 4-107.401 General -- These design criteria are not intended to cover extraordinary situations. Deviations can be allowed and may be required in those instances where considered justified by the planning commission.

- 4-107.402 Design Factors -- Sanitary sewer systems shall be designed for the ultimate tributary population. Due consideration may be given to any current zoning regulations and approved planning reports, where applicable. Sewer capacities shall be adequate to accommodate the anticipated maximum hourly quantity of sewage and industrial wastes, together with an adequate allowance for infiltration and other extraneous flow. The unit design flows presented hereinafter should be adequate in each case for the particular type of development indicated. Sewers shall be designed for the total tributary area using the following criteria.

SEWER DESIGN FLOWS

Buildable Type

One and Two Family Dwellings 0.02 cubic feet
per second
(c.f.s. per acre)

Apartments

One and Two Story 0.02 c.f.s. per acre
Three through Six Story 0.03 c.f.s. per acre

Commercial

Small Stores, Offices and
Miscellaneous Business 0.02 c.f.s. per acre
Shopping Centers. 0.02 c.f.s. per acre

Industrial As initially determined
by the engineer or other
appropriate governmental
representative

These design factors shall apply to watersheds of three hundred (300) acres or less. Design factors for watersheds larger than three hundred (300) acres and smaller than one thousand (1,000) acres shall be computed on the basis of a linear decrease from the applicable design factor for an area of three hundred (300) acres to a design factor of 0.01 c.f.s. per acre for an area of one thousand (1,000) acres, unless otherwise directed by appropriate governmental representative. Design factors for watersheds larger than one thousand (1,000) acres shall be 0.01 c.f.s. per acre unless otherwise directed.

All sanitary sewer materials shall be A.S.T.M. and/or A.W.W.A. approved as specified by the engineer.

4-108 Pedestrian Ways

4-108.1 Sidewalks and Bicycle Paths -- Sidewalks and bicycle paths, where required by the planning commission, shall be included within the dedicated non-pavement right-of-way of all public ways as indicated in the following table and shall be improved as required

by Section 4-103.4 of these regulations. Concrete curbs are required for all public ways where sidewalks are to be constructed. A median strip of grassed or landscaped area at least two (2) feet wide shall separate all sidewalks from adjacent curbs.

SIDEWALK DESIGN

<u>Class of Street</u>	<u>Public Way</u>	<u>Sidewalk Width</u> Nonresidential Public Way (Industrial, Residential Commercial; Other)
Minor Public Way	5 feet wide	6 feet wide
Collector Public Way	5 feet wide	6 feet wide
Arterial Public Way	5 feet wide	6 feet wide

4-108.2 Pedestrian Accesses -- The planning commission may require, in order to facilitate pedestrian access from the public way to schools, parks, playgrounds, or other nearby public ways, perpetual unobstructed easements at least twenty (20) feet in width. Easements shall be indicated on the plat.

4-109 Utility Easements

- (1) Easements down rear lot lines or additionally across lots, if deemed necessary by the planning commission, shall be provided for utilities (private or public). Such easements shall be at least ten (10) feet wide except for across-lot easements which shall be at least twenty (20) feet wide. The subdivider shall take such actions as are necessary to ensure the coordination and continuation of utility easements established on adjacent properties with those proposed within his development.
- (2) Where topographical or other conditions are such as to make impractical the inclusion of utilities within rear lot lines, perpetual unobstructed easements at least ten (10) feet in width shall be provided along side lot lines with satisfactory access to public ways or rear lot lines. Easements shall be indicated on the plat.
- (3) Temporary construction easements exceeding the width of permanent easements may be required as necessary until completion of any one project.

4-110 Public Uses

- 4-110.1 Plat to Provide for Public Uses -- Whenever a tract to be subdivided includes a school, recreation use, a portion of a major public way, or other public use, as indicated on the land development plan and/or major street or road plan, or any portion thereof, such tract shall be suitably incorporated by the developer into his plat when first presented for review by the planning commission.

After proper determination of its necessity by the planning commission and the appropriate governmental representative(s) involved in the acquisition and use of such site, and after a determination has been made to acquire the site by the public agency, the site shall be suitably incorporated by the developer into the plat prior to final approval by the planning commission and recording of the plat.

- 4-110.2 Referral to the Governmental Agency Concerned -- The planning commission shall refer any plat presented in accordance with Section 4-110.1. The planning commission may propose alternate areas for such acquisition and shall allow the appropriate governmental agency thirty (30) days for reply.

Among the areas which the planning commission may propose for public acquisition, when the commission deems it appropriate and consistent with the policies as set forth in these regulations, is any land within a floodway or floodway fringe area as determined according to the procedure outlined herein.

The acquiring agency's recommendation, if affirmative, shall include a map showing the boundaries and area of the parcel to be acquired and an estimate of the time required to complete the acquisition.

- 4-110.3 Notice to Property Owner -- Upon receipt of an affirmative report, the planning commission shall notify the property owner and shall designate on all plats any areas proposed to be acquired by any governmental agency. Upon such designation by the planning commission, any reserved portion of any floodway or floodway fringe area shall not be altered from its natural state by the developer in any manner whatsoever, except upon written approval of the planning commission.

- 4-110.3 Notice to Property Owner -- Upon receipt of an affirmative report, the planning commission shall notify the property owner and shall designate on all plats any areas proposed to be acquired by any governmental agency. Upon such designation by the planning commission, any reserved portion of any floodway or floodway

fringe area shall not be altered from its natural state by the developer in any manner whatsoever, except upon written approval of the planning commission.

- 4-110.4 Duration of Land Reservation -- The acquisition of land reserved by a governmental agency on the final plat shall be initiated within twenty-four (24) months of notification, in writing, from the owner that he intends to develop the land. Such letter of intent shall be accompanied by a plat of a proposed development and a tentative schedule of construction. Failure on the part of the governmental agency to initiate acquisition within the prescribed twenty-four (24) months shall result in the removal of the "reserved" designation from the property involved and the freeing of the property for development in accordance with these regulations.
- 4-111 Preservation of Natural Features and Amenities -- Existing features which would add value to residential development or to the area as a whole, such as trees, watercourses and falls, historic spots, and similar irreplaceable assets, shall be preserved in the design of the subdivision, as required by the planning commission. No change of grade of the land shall be effected nor shall any natural features be removed or relocated until a preliminary subdivision plat has been approved by the planning commission.

4-112 Nonresidential Subdivisions

- 4-112.1 General -- If a proposed subdivision includes land which is zoned for a commercial or industrial purpose, the layout of the subdivision with respect to such land shall make such provisions as the planning commission may require. A nonresidential subdivision also shall be subject to all the requirements of site plan approval set forth in the Westmoreland Zoning Ordinance. Site plan approval may proceed simultaneously at the discretion of the planning commission. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards set forth by the planning commission, and shall conform to the proposed land development plan, major street or road plan, and the Westmoreland Zoning Ordinance.
- 4-112.2 Standards -- In addition to the principles and standards in the regulations, which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to the satisfaction of the planning commission that the public way, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:
- (1) proposed industrial parcels shall be suitable in areas and dimensions to the types of industrial development anticipated;

- (2) public way rights-of-way and pavements shall be adequate to accommodate the type and volume of traffic anticipated;
- (3) special requirements may be imposed by the governing body with respect to any public way, curb, gutter, and sidewalk design and construction specifications;
- (4) special requirements may be imposed by the governing body with respect to the installation of public utilities, including water, sewer, and storm water drainage;
- (5) every effort shall be made to protect adjacent residential areas from potential nuisance from the proposed nonresidential subdivision, including the provision of extra depth in parcels backing on existing or potential residential development and provisions for permanently landscaped buffer strips, when necessary; and
- (6) public way carrying nonresidential traffic, especially truck, normally shall not be extended to the boundaries of adjacent existing or potential residential areas.

ARTICLE 5

SPECIFICATIONS FOR DOCUMENTS TO BE SUBMITTED

5-101 Sketch Plat

5-101.1 General -- Sketch plats submitted to the planning commission, prepared in pen or pencil, shall be drawn to a convenient scale no smaller than two hundred (200) feet to an inch.

5-101.2 Features -- The sketch plat shall show:

- (1) a scale drawing of the property and the names of the owners of adjoining property;
- (2) size of the original tract(s) being subdivided;
- (3) notation of any existing legal rights-of-way or easements, or other encumbrances affecting the property;
- (4) approximate topography of the site, at no more than five (5) foot intervals, extended into adjacent properties;
- (5) any areas which may be affected by flooding;
- (6) general public way and lot patterns;
- (7) proposed phasing, if any;
- (8) vicinity map of the property;
- (9) date and approximate north point;
- (10) name of owner;
- (11) name of licensed surveyor;
- (12) zoning classification;
- (13) the approximate location and size of existing and proposed water lines;
- (14) the approximate size of all platted lots.

5-102 Preliminary Plat

5-102.1 General -- The preliminary plat shall be prepared by a licensed surveyor, at a convenient scale no smaller than two hundred (200) feet to an inch. The plat shall be prepared in pen or pencil, and the sheets shall be numbered in sequence if more than one sheet is used. The map prepared for the preliminary plat may be used for the final subdivision plat and should be permanently reproducible.

5-102.2 Features -- The preliminary plat shall include:

- (1) the location of the property to be subdivided with respect to surrounding property(s) and public way(s);
- (2) the names of all adjoining property owners of record, or the names of adjoining developments;
- (3) the names of adjoining public ways;
- (4) the location and dimensions of all boundary lines of the property, figured to the nearest hundredth of a foot;
- (5) the location of existing public ways, easements, water bodies, streams, and other pertinent features, such as swamps, railroads, buildings, parks, cemeteries, drainage ditches, and bridges, as determined by the planning commission;
- (6) the location and width of all existing and proposed easements, alleys, and other public ways, and building setback lines;
- (7) the location, dimension, and proposed area of all proposed or existing lots;
- (8) the position of all existing or proposed buildings within proposed condominium developments;
- (9) the location and dimension of all property proposed to be set aside for park or playground use or other public or private reservation, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation;
- (10) the limits of floodway, the floodway elevation, and floodway fringe areas and the associated regulatory flood elevation;
- (11) the name and address of the owner(s) of land to be subdivided, the subdivider if other than the owner, and the licensed land surveyor preparing the plat;
- (12) the date of the plat, approximate true north point, scale, and title of the subdivision;
- (13) sufficient data to determine readily the general location, bearing, and length of all lines necessary to reproduce such lines within the area to be subdivided;
- (14) name of the subdivision and all new public ways, as approved by the planning commission;

- (15) the zoning classification of all zoned lots, as well as an indication of all uses other than residential proposed by the subdivider;
- (16) the distance and bearing of one of the corners of the boundary of the subdivision to the nearest intersection of existing public ways and to the original corner of the original survey of which it is a part;
- (17) key map showing relation of the subdivision to all public ways, railroads, and water courses in all directions to a distance of at least one-half mile (suggested scale: one inch to one thousand (1,000) feet);
- (18) contours at vertical intervals of not more than two (2) feet where the proposed subdivision has an average slope of five percent (5) or less, or at vertical intervals of not more than five (5) feet where the average slope exceeds five (5) percent (contours to be field surveyed or taken from aerial photographs acceptable to the planning commission);
- (19) map parcels numbers as recorded on the land tax maps of the county;
- (20) the location of all water and sewer lines, as well as the location of all existing and proposed fire hydrants.
- (21) The following notations:
 - (a) explanation of drainage easements;
 - (b) Developer is solely responsible for any excess water drainage and erosion from property. **(Added by Resolution No. 01-24-02, January 24, 2002)**
 - (c) explanation of site easements; **(Amended Existing (b) to (c) by Resolution No. 01-24-02, January 24, 2002)**
 - (d) explanation of reservations; and **(Amended Existing (c) Changed to (d) by Resolution No. 01-24-02, January 24, 2002)**
 - (e) for any lot where public sewer or water systems are not available, the following: **(Amended Existing (d) Changed to (e) by Resolution No. 01-24-02, January 24, 2002)**
 - (i) areas to be used for sewage disposal and their percolation results, or if the planning commission desires, any other acceptable data to show that the site can be served effectively by septic tanks;

- (ii) water wells (existing and proposed); and
- (iii) rock outcropping, marshes, springs, sinkholes, natural storm drains, and other outstanding topographical features;
- (f) all installed grinder pumps meet city engineer specifications and written approval is on file. **(Added by Resolution No. 11-11-04, November 11, 2004)**
- (22) draft of proposed restrictive covenants, if any, to be imposed and designation of areas subject to special restrictions; and
- (23) a form for endorsement of planning commission approval of the preliminary plat which shall read as follows:

Approved by the _____

Planning Commission, with such exceptions or conditions as are indicated in the minutes of the Commission on _____ date.

Preliminary plat approval shall not constitute final approval for recording purposes.

5-103 Construction Plans

5-103.1 General -- Four (4) copies of construction plans shall be prepared for all improvements required by these regulations. Plans shall be drawn at a scale of no more than fifty (50) feet to an inch. Plans shall be in compliance with the specifications in Article 4, of these regulations. Approval of plans must precede actual construction, and no final plat shall be considered by the planning commission until the required plans have been approved. The construction plans shall be prepared by a licensed engineer engaged in the practice of civil engineering.

5-103.2 Features -- The following shall be shown on the construction plans.

- (1) Profiles showing existing and proposed elevations along center lines of all public ways.
- (2) Where a proposed road intersects an existing public way or ways, the elevation along the center line of the existing public way within one hundred (100) feet of the intersection.
- (3) Approximate radii of all curves, lengths of tangents, and central angles on all public ways.

- (4) Proposed public ways, as required by the planning commission; where such are required, horizontal stationing shall be at fifty (50) foot intervals and cross-sectional elevations shall be to an accuracy of one tenth foot vertical on a line at right angles to the center line of the public way at the following points: the center line of the public way, each property line, and points twenty-five (25) feet inside each property line.
- (5) Plans and profiles indicating the locations and typical cross-section of public way pavements, including curbs and gutters, sidewalks, drainage easements, rights-of-way, manholes, and catch basins.
- (6) The location of public way signs.
- (7) The location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connection to any existing or proposed utility system.
- (8) Exact location and size of all water, gas, or other underground utilities or structures.
- (9) Location, size, elevation, and other appropriate description of any existing facilities or utilities, including but not limited to, existing public ways, sewers, drains, water mains, easements, water bodies, streams, and other pertinent features, such as swamps, railroads, buildings, and features noted on the land development plan or major street or road plan.
- (10) The water elevations of adjoining lakes or streams and the approximate high- and low- water elevations of such lakes or streams shall be shown. All elevations shall be referred to the U.S.G.S. datum plane.
- (11) If the subdivision borders a lake, river, or stream, the distance and bearings of a meander line established not less than twenty (20) feet back from the ordinary high water mark of such waterways.
- (12) The developer shall prepare for any portion of a subdivision containing a flood prone area, or an area known to be subject to flooding, information necessary for the planning commission to determine the suitability of the particular site for the proposed development, as follows:
 - (a) plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of any part of the subdivision within a flood prone area; existing or proposed structures or building sites, fill, storage of materials, and flood proofing measures, as specified

in these regulations; and the relationship of the above to the location of the stream channel, floodway, floodway fringe, the regulatory flood elevation, and the regulatory flood protection elevation;

- (b) a typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information, if required by the planning commission;
 - (c) surface view plans showing elevations and contours of the ground;
 - (d) pertinent structures, fill or elevations of public ways;
 - (e) water supply, sanitary facilities, soil types, and other pertinent information, as required by the planning commission; and
 - (f) specifications for building construction and materials, flood proofing, filling, dredging, grading, storage of materials, water supply, and sanitary facilities.
- (13) A notation that all installed grinder pumps meet city engineer specifications and written approval thereof is attached herewith. **(Added by Resolution No. 11-11-04, November 11, 2004)**
- (14) Contours at the same vertical interval as on the preliminary plat. **Renumbered by Resolution No. 11-11-04, November 11, 2004)**
- (15) In addition to the other requirements of this section, construction plans for condominium subdivisions shall contain "as built" drawings of all underground utilities, regardless of proposed ownership, and the construction design of all public facilities which are proposed for dedication to the governing body. **(Renumbered by Resolution No. 11-11-04, November 11, 2004)**
- (16) A notation of construction plans approval by appropriate persons or governmental representatives. **(Renumbered by Resolution No. 11-11-04, November 11, 2004)**
- (17) Title, name, address, and signature of engineer who prepared the plans. **(Renumbered by Resolution No. 11-11-04, November 11, 2004)**
- (18) Date of plans, including any revision dates. **(Renumbered by Resolution No. 11-11-04, November 11, 2004)**

5-104 Final Subdivision Plat

5-104.1 General -- The final subdivision plat shall be prepared on transparent drafting material at a scale one hundred (100) feet to the inch, but no smaller than two hundred (200) feet to the inch on sheets of county register plat book size. The use of an appropriate smaller scale may be permitted for lots larger than two acres. When more than one sheet is required, an index sheet of the same size shall be filed showing the entire subdivision with the sheets numbered in sequence.

Construction plans as described in Section 5-103, of these regulations, shall have been approved prior to planning commission approval of the final subdivision plat.

5-104.2 Features -- The final plat shall include:

- (1) The location of the property to be subdivided with respect to surrounding property(s) and public ways.
- (2) The names of all adjoining property owners of record or the names of adjoining developments.
- (3) The names of adjoining public ways.
- (4) The exact boundary lines of the tract, determined by a field survey, showing angles to the nearest minute and distance to the nearest one hundredth of a foot. The adjusted accuracy of the survey shall meet or exceed the standards set forth in Title 62, Chapter 18, of the Tennessee Code Annotated, for the category of survey required by these regulations. The category of survey shall be determined according to the average size of lots (see Table below) within the proposed subdivision. The survey shall be tied into the Tennessee Grid Coordinate System.

ACCURACY OF SURVEYS

<u>Average Lot Size</u>	<u>Unadjusted Accuracy</u>
One (1) Acre or Less	Category "I" Suburban Land Survey
Greater than One (1) Acre, but Less than Ten (10) Acres	Category II" Rural Land Survey
Ten (10) Acres or More	Category "III" Farm Land Survey

A distance and bearing shall be provided which will link a point on the boundary of the subdivision to a monument in right-of-way of the nearest prominent public way intersection.

- (5) The location of all public ways, easements, water bodies, large streams or rivers, railroads, parks, and cemeteries.
- (6) The limits of floodway, the floodway elevation, and floodway fringe areas and the regulatory flood elevation.
- (7) The location and width of all easements and rights-of-way for public ways, as well as the building setback lines on all lots.
- (8) The location, dimensions, and area of all lots. All dimensions shall be field run to the nearest one hundredth of a foot and angles to the nearest second. Lot areas shall be shown to the nearest tenth of a square foot.
- (9) The location, area, and dimensions, to the accuracy set forth in Item 8, above, of all property to be set aside for park or playground use or other public or private reservation, with a designation of the purpose thereof, and conditions, if any, of the dedication or reservation.
- (10) The final plat of a condominium subdivision shall contain, in addition to the other information required by this section:
 - (a) an "as-built" building location and boundary survey, to "American Land Title Association" or other similar standards, showing complete and accurate dimensions and angles of the boundary of the parcel(s) on which the condominium is located, together with exterior dimensions and location relative to those boundaries of the building(s) which constitute the condominium subdivision;
 - (b) some sort of datum plan or other suitable vertical location reference. In meeting these requirements, it is only necessary that the upper and lower limits of each level of each condominium unit be identified specifically in relation to the vertical reference, (e.g., an appropriate permanent monument or other acceptable reference datum or fixed known point). Elaborate exterior elevations and architectural detail are not necessary to satisfy this requirement; and
 - (c) any other special information which the planning commission may require to protect the rights of future owners of the condominium or the public in general.
- (11) The name and address of the owner(s) of the land being subdivided.
- (12) The name and address of the subdivider if other than the owner.
- (13) The name of the licensed surveyor preparing the plat.

- (14) The date of the plat, approximate true north point, scale, and title of the subdivision.
- (15) Sufficient data to determine readily the location, bearing, and length of all lines necessary to reproduce such lines upon the ground. This shall include the radius, central angle, and tangent distance for the center line of the curved public ways and curved property lines that are not the boundary of curved public ways. The location of all monuments and pins shall be indicated on the plat.
- (16) The names of all public ways.
- (17) The zoning classification of all lots, as well as an indication of uses other than residential proposed by the subdivider.
- (18) The total acreage within the subdivision.
- (19) Lot numbers, where required.
- (20) The line size and location of water and sewer facilities.
- (21) The location of all fire hydrants.
- (22) The diameter and width of all driveway culverts.
- (23) Developer is solely responsible for any excess water drainage and erosion from property. **(Added by Resolution No. 01-24-02, January 24, 2002)**
- (24) The lowest floor elevations of all principal structures situated within areas having elevations at or below the elevation of the 100-Year Flood. **(Amended Existing (23), Changed to (24), Resolution No. 01-24-02, January 24, 2002)**
- (25) Proposed fill elevations extending twenty-five (25) feet beyond all principal structures that are located within designated floodplain areas. **(Amended Existing (24), Changed to (25), Resolution No. 01-24-02, January 24, 2002)**
- (26) For any lot where public sewer or water system is not available, the following shall be shown: **(Amended Existing (2), Changed to (26), Resolution No. 01-24-02, January 24, 2002)**
 - (a) areas to be used for sewage disposal; and
 - (b) water wells (existing and proposed).
 - (c) water well disclaimer note if a well is utilized to service any platted lot. Such note must state that the lot in question may not be suitable for utilization by a water well.

- (27) Applicable and certifications in the form reproduced in this section shall appear upon the final plat. All required certificates shall bear the signature of the approving or authorizing agent at the time of application for final plat approval, except that the form for endorsement of the planning commission's approval for recording shall appear unsigned at the time of application for approval. **(Amended Existing (26), Changed to (27), Resolution No. 01-24-02, January 24, 2002)**
- (28) State Department of Environment and Conservation, public water and sewer design layout and approval stamps, if applicable; also, actual design plans for filing in appropriate governmental representative's office. **(Amended Existing (27), Changed to (28), Resolution No. 01-24-02, January 24, 2002)**
- (29) Commitment note may be printed or stamped on the final plat reflecting location and dimension of easements, or extent of other agreements or factual data, in lieu of drafted illustration, when applicable, and as approved by the planning commission. **(Amended Existing (28), Changed to (29), Resolution No. 01-24-02, January 24, 2002)**
- (30) Traffic study prepared by a licensed traffic engineer, when required by the city engineer/planning commission. **(Amended Existing (29), Changed to (30), Resolution No. 01-24-02, January 24, 2002)**

5-104.3

Plat Certificates

- (a) Certification showing that the applicant is the landowner; that he offers for dedication public ways, rights-of-way, and any site for public use; and that he consents to the subdivision plan.

CERTIFICATE OF OWNERSHIP AND DEDICATION

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon as evidenced in Book Number _____, page _____, County Registers Office, and that I (we) hereby adopted this plan of subdivision with my (our) free consent, establish the minimum building restriction lines, and that offers or irrevocable dedication for all public ways, utilities, and other facilities have been filed.

Date

Owner

Title (if action for partnership or corporation)

- (b) Certification by a registered land surveyor as to the accuracy of the land survey.

CERTIFICATE OF SURVEY ACCURACY

I (we) hereby certify that to the best of my (our) knowledge and belief this is a true and accurate survey of the property shown hereon; that this is a category "_____" Land Survey as defined in Title 62, Chapter 13, Tennessee Code Annotated, and that the accuracy thereof is greater than or equal to 1:_____, and that the monuments have been placed, as shown hereon, to the specifications in these regulations, or that a surety instrument or performance bond has been filed to guarantee their installation.

Date

Registered Land Surveyor
Surveyor Number _____

- (c) Certification by appropriate governmental or quasi-governmental official(s) that sewage disposal and/or water system(s) has/have been installed.

CERTIFICATE OF APPROVAL OF WATER SYSTEM

I hereby certify that the water system(s) outlined or indicated on the final subdivision plat entitled _____ has/have been installed in accordance with current local and state government requirements, or a sufficient bond or other surety has been filed to guarantee said installation.

Date

Public Works Director, or
Authorized Approving Agent

CERTIFICATE OF APPROVAL OF PUBLIC SEWER SYSTEM

I hereby certify that the sewer system(s) outlined or indicated on the final subdivision plat entitled _____ installed in accordance with current local and state government requirements, or a sufficient bond or other surety has been filed to guarantee said installation.

Date

Public Works Director, or
Authorized Approving Agent

CERTIFICATE OF APPROVAL OF
PRIVATE SUBSURFACE SEWAGE DISPOSAL

Certification of General Approval for installation of Subsurface Sewage Disposal Systems with Restrictions.

General approval is hereby granted for lots proposed hereon as being suited for subsurface sewage disposal with the listed and/or attached restrictions.

Before the initiation of construction, the location of the house or other structure and plans for the subsurface sewage disposal system shall be approved by the local health authority.

Date

Local Health Authority

- (d) Certification on the final plat by appropriate governmental representative that the subdivider has complied with the following.
- (i) installation of all public way improvements in accordance with the requirements of these regulations; or
 - (ii) in lieu of compliance with subdivision improvement requirements, certification that surety instrument has been posted by the subdivider in an amount approved by appropriate governmental representative to guarantee completion of all improvements.

CERTIFICATE OF APPROVAL OF
PUBLIC WAYS FOR BOND POSTING

I hereby certify: (1) that all designated public ways on this final subdivision plat have been installed in an acceptable manner and according to the specifications of the Westmoreland, Tennessee Subdivision Regulations, or (2) that a performance bond or other surety has been posted with the planning commission to guarantee completion of all required improvements in case of default.

Date

Public Works Director

- (e) For a subdivision containing common open space or facilities, certification on the final plat of dedication of common areas in accordance with procedures established in these regulations.

CERTIFICATION OF COMMON AREAS DEDICATION

_____ in recording this plat has designated certain areas of land shown hereon as common areas intended for use by the homeowners within

(Name of Subdivision) for recreation and related activities. The above described areas are not dedicated for use by the general public, but are dedicated to the common use of the homeowners within the named subdivision.

"Declaration of Covenants and Restrictions," applicable to the above named subdivision, is hereby incorporated and made a part of this plat.

Date

Owner

- (f) Certification on the final plat of planning commission approval for recording of the plat.

CERTIFICATION OF APPROVAL FOR RECORDING

I hereby certify that the subdivision plat shown hereon has been bound to comply with the Westmoreland, Tennessee Subdivision Regulations, with the exception of such variances, if any, as are noted in the minutes of the planning commission, and that it has been approved for recording in the Office of the County Register.

Date

Secretary, Planning Commission

- (g) Notation of Possible Flooding -- If any portion of the land being subdivided is subject to flooding as defined in these regulations, a notation shall be made on the plat that development or modification of the land within any floodway delineated within plat is prohibited and that development within floodway fringes delineated on the plat shall be done in such a manner that any structure shall be protected against flood damage to at least the regulatory flood

protection elevation, which elevation shall be stated in the notation. Any additional restrictions imposed by the planning commission upon development within flood prone areas also shall be indicated on the plat.

- (h) Notation of Health Restrictions -- Any modifications or limitations which may be imposed by the state or county health department shall be clearly indicated on the plat.
- (i) Notation of Private Restrictions -- Private restrictions and trusteeships and their periods of existence shall be indicated on the plat. Should these restrictions or trusteeships be of such length as to make their lettering impracticable and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat or, if the restrictions and trusteeships are of record, the plat shall note where they are recorded.
- (j) Notation of Geotechnical Requirements - In all cases where potentially dangerous or damaging geological conditions such as sink holes are present within the boundaries of the subdivision, or the platted lots therein as determined by the planning commission, a notation shall be placed on the associated subdivision plat requiring a geotechnical report be prepared by a licensed professional prior to the issuance of a building permit on said lots.
- (k) Notation of Traffic Study Preparation - In all cases wherein the city engineer and/or the planning commission determines that the location, and design of any proposed subdivision street accesses an existing street, and the proposed design of this intersection is inadequate to meet the increased traffic requirements generated by the proposed subdivision, or section of the subdivision in question due to the number of lots therein, and/or due to the configuration or nature of the street system, a traffic study shall be prepared by a licensed traffic engineer, and a notation shall be placed on the plat that the findings of said study be implemented and constructed prior to final plat approval, or bonded as a part of the certificate of approval of public ways.

ARTICLE 6

DEFINITIONS

6-101 Usage

- (1) For the purpose of these regulations certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this article.
- (2) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular; the word "herein" means "in these regulations"; and the word "regulations" means "these regulations".
- (3) A "person" includes a corporation, a partnership, and an unincorporated association of persons, such as a club; "shall" is always mandatory; a "building" or "structure" includes any part thereof; "used" or "occupied", as applied to any land or building, shall be construed to include "intended, arranged, or designed to be used or occupied".

6-102 Words and Terms Defined

Alley -- A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant -- The owner of land proposed to be subdivided or his authorized representative. Consent shall be required from the legal owner of the premise(s).

Architect -- An architect certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Section 62-202, Tennessee Code Annotated, to practice in Tennessee; or a landscape architect certified and licensed by the State Board of Landscape Architects pursuant to Section 62-203, Tennessee Code Annotated, to practice in Tennessee.

Arterial Street or Road -- A major public way intended to move traffic to and from major industrial areas or a route for traffic between communities or large areas and which has an average daily traffic count in excess of 3,000.

Block -- A tract of land bounded by public ways or by public parks, cemeteries, railroad rights-of-way, or shorelines or waterways or a combination of such.

Bond -- An instrument with a clause, with a sum of money fixed as a penalty, binding the parties to pay the same: conditioned, however, that the payment of the penalty may be avoided by the performance by some one or more of the parties of certain acts.

Building -- Any structure built for the support shelter, or enclosure of persons, animals, chattels, or movable property of any kind; the term includes a mobile home.

Capital Improvements Program -- A proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government operating expenses, for the purchase, construction, or replacement of the physical assets of the community are included.

Channel -- That portion of any watercourse being the stream bed of any blue line stream shown on any U.S.G.S. Quadrangle Map, or any stream bed shown on any official F.E.M.A. flood map.

Collector Street or Road -- A major public way intended to move traffic from local ways to arterial routes. Collector routes serve a neighborhood or large subdivision(s), and normally have an average daily traffic count ranging from 1,000 to 3,000.

Common Elements -- Any portion of a condominium which is held in common by owners of condominium units. These elements may be either general common elements or limited common elements, as defined below.

General Common Elements -- Any of the common elements of a condominium which are held in joint ownership by all owners of the condominium.

Limited Common Elements -- Any of the common elements of a condominium which are reserved for use by the owner of a particular condominium unit or group of units.

Condominium -- A form of ownership of less than the whole of a building or system of buildings under a statute which provides the mechanics and facilities for formal filing and recordation of divided interests in real property, whether the division is vertical or horizontal.

Condominium Subdivision -- The subdivision of property through the establishment of a condominium or horizontal property regime.

Condominium Unit -- A space conveyed by separate title and located within a condominium structure.

Construction Plan -- The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the planning commission.

Contractor -- An individual, firm, or corporation with whom an owner or authorized agent has executed a work agreement.

County Environmentalist -- An agent designated to administer local and/or state health regulations.

Cul-de-sac -- A minor street having only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement; definition includes dead end, turn-around, or turn-about.

Design Specifications -- Written descriptions of a technical nature of materials, equipment, construction systems, standards, and workmanship required for a project intended for local government ownership or maintenance.

Developer -- The owner of land proposed to be subdivided or his authorized representative.

Dwelling Unit -- A room, or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or dwelling units which maybe in the same structure; and containing independent cooking and sleeping facilities.

Easement -- Authorization by a property owner for the use by another, for a specified purpose, of any designated part of his property.

Enforcing Officer -- The building inspector or such person designated by the chief executive officer to be responsible for enforcing the provisions of these regulations.

Engineer -- An engineer certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Section 62-202, Tennessee Code Annotated, to practice in Tennessee.

Equal Degree of Encroachment -- The delineation of floodway limits so that floodplain lands on both sides of a stream are capable to conveying a proportionate share of flood flows. This is determined by considering the hydraulic conveyance of the floodplain along both sides of a stream for a significant reach.

Escrow -- A fiduciary agreement with the local government in lieu of actual performance and intended to assure performance. An escrow account maybe provided as a bond subject to agreement of the governing body.

External Subdivision Boundary -- All points along the periphery of a subdivision.

Final Subdivision Plat -- The final map or drawing and accompanying materials, described in these regulations, on which the subdivider's plan of the subdivision is presented to the planning commission for approval and which, if approved by the commission, is recorded with the county register of deeds.

"Flood" or "Flooding" -- A temporary rise in stream level that results in inundation of areas not ordinarily covered by water.

Flood Frequency -- The statistically determined average for how often a specific flood level or discharge may be equaled or exceeded.

Flood Fringe Area -- That area of the floodplain lying outside the floodway but still lying within the area of special flood hazard, i.e., within the 100-year floodplain.

Flood Hazard Boundary Map -- An official map on which the boundaries of floodplain areas having special flood hazards have been delineated. (See "Flood Insurance Study").

Flood Hazard or Flood-Prone Area -- The maximum area of the floodplain that, on the average, is likely to be flooded once every one hundred years (i.e., that has a one percent chance of being flooded in any year).

Floodplain -- A land area adjoining a river, stream watercourse, bay, or lake which is likely to be flooded. It is composed of a floodway and floodway fringe.

Floodplain Management Program -- The overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, building code regulations, health regulations, zoning ordinance regulations, and these subdivision regulations.

Flood Profile -- A graph showing the water-surface elevation or height of a particular flood event for any point along the longitudinal course of a stream. The flood profile is determined through the use of standard open-channel hydraulic calculations.

Flood Proofing -- Any combination of structural and nonstructural additions, changes, or adjustments to properties and structures which reduce or eliminate potential flood damage to lands; water facilities, sanitary facilities, and other utilities; structures; and contents of buildings; and which prevent pollution of floodwaters from such natural or man-made sources.

Floodway -- The stream channel and adjacent overbank areas required to carry and safely discharge the 100-year flood without increasing flood levels more than one foot above natural flood levels.

Floodway Encroachment Limits -- The lines marking the limits of floodways on official federal, state, and local floodplain maps.

Floodway Fringe - The area adjoining a watercourse which, although not lying within a floodway, has been or may hereafter be covered by a 100-year flood.

Frontage -- That side of a lot abutting a public way ordinarily regarded as the front of the lot. It shall not be considered as the ordinary side of a corner lot.

General Plan -- The official statement of the planning commission which sets forth major policies concerning future development of the jurisdictional area and meeting the provisions set forth in Section 13-4-102, Tennessee Code Annotated.

Governmental Agency -- Any public body other than the governing body.

Governing Body -- The chief legislative body of any government.

Governmental Representative -- An outside person or designated local official or employee authorized to act on behalf of the governing body in making determinations regarding legal, public works, planning, community development, or other public business.

Grade -- The slope of a public way specified in percentage terms.

Highway, Limited Access -- A freeway or expressway providing a trafficway for through traffic, in respect to which owners or occupants of abutting property(s) or lands and other persons have no legal right of access to or from the trafficway, except as such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.

Horizontal Property Act -- "The Tennessee Horizontal Property Act" as codified in Sections 64-2701 through 64-2722, Tennessee Code Annotated.

Individual Sewage Disposal System -- A septic tank, seepage tile sewage disposal system, or any other sewage treatment device other than a public treatment system approved by the appropriate governmental representative.

Internal Subdivision Boundary -- All points within a subdivision which do not constitute external boundaries.

Joint Ownership -- Joint ownership among persons shall be construed as the same owner for the purpose of imposing subdivision regulations.

Jurisdictional Area -- Planning boundary(s) established in keeping with Sections 13-4-103, 13-4-201, and 13-4-303, Tennessee Code Annotated.

Land Development Plan -- An element of the general plan which sets out a plan or scheme of future land usage.

Land Surveyor -- A land surveyor certified and registered by the State Board of Land Survey Examiners pursuant to Section 62-1803, Tennessee Code Annotated, to practice in Tennessee.

Legal Counsel -- The person designated by the governing body to provide legal assistance for the administration of these and other regulations.

Lot -- A tract, plot, or portion of a subdivision or parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or for building development.

Lot, Corner -- A lot situated at the intersection of two (2) public ways.

Lot Improvements -- Any building, structure, place, work of art, or other object or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

Low-Lying Land - Any sink hole or depression at a lower elevation than the elevation of the drainage basin or 100 year floodplain.

Major Street or Road -- A public way which is classified as a collector or arterial public way according to these regulations or by the major street or road plan for the jurisdictional area.

Major Street or Road Plan -- The plan adopted by the planning commission, pursuant to Section 13-4-302, Tennessee Code Annotated, showing, among other things, "the general location, character, and extent of public ways...(and) the removal, relocation, extension, widening, narrowing, vacating, abandonment or change of use of existing public ways..."

Major Subdivision -- All subdivisions not classified as minor subdivisions including but not limited to subdivisions of five or more lots or subdivisions of any size requiring any new or improved road, the extension of government facilities, or the creation of any public improvements, or containing any floodprone area.

Minor Street or Road -- A public way which is not classified as an arterial or collector.

Minor Subdivision -- Any subdivision containing less than five (5) lots fronting on an existing public way; not involving any new or improved public way, the extension of public facilities, or the creation of any public improvements, and not in conflict with any provision of the adopted general plan, major street or road plan, zoning ordinance, or these regulations.

National Flood Insurance Program -- A program established by the U.S. Government in the National Flood Insurance Act of 1968, and expanded in the Flood Disaster Protection Act of 1973, in order to provide flood insurance at rates made affordable through a federal subsidy in local political jurisdictions which adopt and enforce floodplain management programs meeting the requirements of the National Flood Insurance Program regulations. The program regulations are found at 24 Code of Federal Regulations, Chapter X, Subchapter B.

Off-Site -- Any premise not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

One Hundred-Year Flood -- A flood having an average frequency of occurrence of once in 100 years, although it may occur in any year. It is based on statistical analysis of stream flow records available for the watershed and analysis of rainfall and runoff characteristics in the general region of the watershed.

Owner -- Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the real property.

Performance Bond -- See "Bond".

Perimeter Street -- Any existing street to which the parcel of land to be subdivided abuts on only one side.

Planning Commission -- A public planning body established pursuant to Title 13, Chapter 4, Tennessee Code Annotated, to execute a partial or full planning program within authorized area limits.

Preliminary Plat -- The preliminary drawing or drawings, described in these regulations, indicating the proposed manner of layout of the subdivision to be submitted to the planning commission for approval.

Premise(s) -- A tract of land together with any buildings or structures which may be thereon.

Public Improvement -- Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation or which may affect an improvement for which government responsibility is established.

Public Way -- Any publicly owned street, alley, sidewalk, or land right-of-way which provides for movement of pedestrians or vehicles.

Reach -- A hydraulic engineering term to describe longitudinal segments of a stream or river. A reach generally include the segment of the flood hazard area where flood heights are influenced by man-made area where flood or natural obstructions. In an urban area, the segment of a stream or river between two consecutive bridge crossings typically would constitute a reach.

Regulatory Flood -- The one hundred-year flood.

Regulatory Flood Protection Elevation -- The elevation of the regulatory flood plus one foot of freeboard to provide a safety factor.

Resubdivision -- A change in a map of any approved or recorded subdivision plat altering the number of lots incorporated within the confines of the original plat.

Right-of-Way -- A strip of land occupied or intended to be occupied by a public way crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer line, or for another special use. The usage of the term "right-of-way", for land platting purposes, shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and shall not be included within the dimensions or areas of such lots or parcels.

Sale or Lease -- Any immediate or future transfer of ownership, including contract of sale or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, or other written instrument.

Same Ownership -- Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Setback -- The distance between a building wall and the nearest public way right-of-way.

Sketch Plat -- A sketch preparatory to the preliminary plat (or final subdivision plat, in the case of minor subdivisions).

Special Flood Hazard Map -- The official map designated by the Federal Insurance Administrator to identify floodplain areas having special flood hazards.

Staff Assistant to the Planning Commission -- The person(s) employed by the local governing body to assist the planning commission in planning and land use regulation activities.

Start of Construction -- For purposes of subdivision control any alteration of the original surface area of the land, from and after the date of adoption of these regulations.

Structure -- Anything constructed above or below ground.

Subdivider -- Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot parcel site, unit, or plot in a subdivision or who (3) engages, directly or indirectly, or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot parcel site, unit, or plot in a subdivision or who (4) is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.

Subdivision - means the division of a tract or parcel of land into two (2) or more lots, sites, or other divisions requiring new street or utility construction, or any division of less than five (5) acres, for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and when appropriate to the context, relates to the process of resubdividing or to the land or area subdivided. (See Section 13-4-301, Tennessee Code Annotated).

Subdivision Agent -- Any person who represents or acts for or on behalf of a subdivider or developer in selling, leasing, or developing or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plot in a subdivision, except in an instance where only legal counsel is provided.

Temporary Improvement -- Any improvement built and maintained by a subdivider during construction of the subdivision and prior to release of the surety for completion of required improvements.

Twenty-Five Year Flood -- A flood having an average frequency of occurrence of once in 25 years.

Watercourse - Any stream shown on an official FEMA flood management map, or any blue line stream shown on any U.S.G.S. quadrangle map.

Water Surface Elevation -- The heights in relation to mean sea level expected to be reached by floods of various magnitudes and frequencies at pertinent points in the floodplain. Also the level of natural flows or collectors or water which may be expected to be found above or below surface.

Zoning Ordinance -- A statute, legally adopted pursuant to Title 13, Chapter 7, Tennessee Code Annotated, for the purpose of regulating by district, land development or use for a designated area.

APPENDIX A

**SPECIFICATIONS FOR
STONE BASE
HOT ASPHALTIC MIXTURE SURFACE**

SECTION I. GENERAL

A. JURISDICTION

These rules and regulations governing the construction of roads and streets shall apply within the planning jurisdiction of the Westmoreland Municipal Planning Commission.

B. PURPOSE

The purpose of these specifications is to establish standards of design and construction, including construction procedures and quality of materials, that are adequate to assure the safety, convenience, and welfare of the people within the planning jurisdiction.

C. DEFINITIONS

1. Local Government - The city or county government having jurisdiction within the area where a development is located.
2. Local Government Engineer - That individual designated by the local government to receive and review plans submitted in conformance with the provisions of this section.
3. Engineer - An engineer certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Section 62-202, Tennessee Code Annotated.
4. Enforcing Officer - That individual designated by the chief executive officer of the local government to enforce these provisions.
5. Standard Specifications - Standard Specifications for Road and Bridge Construction, Tennessee Department of Transportation, Bureau of Highways, Nashville, Tennessee, March 1, 1981, and subsequent revisions and additions.
6. A.A.S.H.T.O. - American Association of State Highway and Transportation Officials.
7. A.S.T.M. - American Society for Testing Materials.
8. Basic Regulations - The basic subdivision regulations of Westmoreland, Tennessee to which this material is attached as an appendix.

D. APPROVALS

All construction plans shall be prepared and submitted to the local government engineer. The content and submission procedure shall be as set forth in SECTION II, PLANNING.

E. ACCEPTANCE

Acceptance for public maintenance of any facilities or improvements located within any subdivision may only be accomplished by formal action of the governing body in the manner established in Section 3-101.7, Basic Regulations. Any approval of plans, etc., submitted in conformance with these provisions, shall not in any manner bind or presuppose acceptance of these facilities by the governing body.

F. RESPONSIBILITY FOR COMPLIANCE

In all matters involving enforcement of, or compliance with, the provisions contained herein, the subdivider (as defined in Basic Regulations, Section 6-102) is considered as the party legally responsible for performance; and the use of engineers, contractors, or other agents shall in no way diminish or absolve the subdivider of this basic responsibility.

SECTION II. PLANNING

A. PLAN PREPARATION

All construction plans for improvements within land subdivisions shall be prepared by engineers registered to practice within the State of Tennessee. The plans shall bear the stamp and signature of the individual responsible for their preparation.

B. CONTENT

The information set forth in Section 5-103, Basic Regulations, shall be required upon each and every plan submitted hereunder. In any instance where special conditions may warrant, additional data may be required.

C. SUBMISSION, REVIEW, AND APPROVAL

When the plans are complete, with all required data entered thereon, they shall be submitted to the local government engineer for review and comment prior to formal presentation before the planning commission. If the local government engineer finds that the plans are in order and all required information is presented, he shall forward the plans to the planning commission for review and approval. Should any disagreement between the local government engineer and the subdivider (or his engineer) arise as to the nature of, or requirement for, any particular improvement or facility, the plans may be forwarded to the planning commission for arbitration of the dispute.

Action by the planning commission may come in the form of unconditional approval of the plans as submitted, conditional approval, or disapproval. Should the commission's action come in the form of conditional approval, the applicant may modify and resubmit the plans to the local government engineer for further review. Should the local government engineer find that the conditions established by the commission have been met, he may so certify in which instance the plans shall be considered approved. Should the commission act to conditionally approve the plans and no subsequent action is pursued by the subdivider (or his engineer) for a period of six (6) months following the date on which action was taken by the planning commission, the plans shall become null and void and any subsequent action shall require submission of new plans.

D. ACTION UPON APPROVAL

Once the plans have received approval as set forth above, construction may begin.

SECTION III. TYPICAL SECTIONS

DRAWINGS

DRAWING A - 1 - REINFORCED CONCRETE HEADWALL

DRAWING A - 2 - AREA DRAIN

DRAWING A - 3 - STRAIGHT ENDWALL FOR CIRCULAR PIPE

DRAWING A - 4 - STRAIGHT END WALL FOR PIPE ARCH

DRAWING A - 5 - MITERED HEADWALL

DRAWING A - 6 - CONCRETE LINED DITCH

DRAWING A - 7 - TYPICAL STABILIZED DITCH SECTION

DRAWING A - 8 - WITH OPEN DITCH - WITH EXTRUDED CURB

DRAWING A - 9 - MINOR RESIDENTIAL STREET/COLLECTOR STREET

DRAWING A - 1
REINFORCED CONCRETE HEADWALL

DRAWING A - 2
AREA DRAIN

DRAWING A - 3
STRAIGHT ENDWALL FOR CIRCULAR PIPE

DRAWING A - 4
STRAIGHT END WALL FOR PIPE ARCH

DRAWING A - 5
MITERED HEADWALL

DRAWING A - 6
CONCRETE LINED DITCH

DRAWING A - 7
TYPICAL STABILIZED DITCH SECTION

DRAWING A - 8

WITH OPEN DITCH/WITH EXTRUDED CURB

DRAWING A - 8

24" WIDE VERTICAL STREET/ALLEY/DRIVEWAY

SECTION IV.

MATERIALS SPECIFICATION AND CONSTRUCTION PROCEDURES

A. PRELIMINARY WORK

1. Location and Protection of Underground Utilities

Prior to beginning excavation or grading, the subdivider shall determine, insofar as possible, the actual locations of all underground utilities in the vicinity of his operations and shall clearly mark them so that they can be avoided by equipment operators. Where such utility lines or services appear to lie in the path of construction, they shall be uncovered in advance to determine their exact location and depth and to avoid damage due to excavation or grading operations. Existing facilities shall be protected during construction or removed and replaced in equal condition, as necessary.

Should any existing utility line or service be damaged during or as a result of the subdivider's operations, the subdivider shall take such emergency measures as may be necessary to minimize damage and shall immediately notify the utility agency involved. The subdivider shall then repair the damage to the satisfaction of the utility agency or shall pay the utility agency for making the repairs. In all cases the damaged structure shall be in as good or better condition as before the damage occurred.

2. Surveying and Staking

The subdivider shall be responsible for his own surveys and establish his own grades unless otherwise directed by the enforcing officer.

3. Removal of Obstructions

The subdivide shall be responsible for the removal, safeguarding, and replacement of fences, walls, structures, culverts, street signs, billboards, shrubs, mailboxes, or other obstructions which must be moved to facilitate construction. Such obstructions shall be restored to at least their original condition.

4. Clearing and Grubbing

The subdivider shall be responsible for cutting, removing, and disposing of all trees, brush, stumps, roots, and weeds within the construction area. Disposal shall be by means of chippers, landfills, or other approved methods not in conflict with state or local ordinances.

Care shall be taken to avoid unnecessary cutting or damage to trees not in the construction area. The subdivider shall be responsible for loss or damage to trees outside the permanent easement or rights-of-way.

5. Traffic Control and Safety

The subdivider shall provide and maintain access to and from all properties along the line of his work. The subdivider shall also provide temporary bypasses and bridges where necessary to route traffic and shall maintain them in a safe and usable condition whenever, in the opinion of the enforcing officer, detouring of traffic to parallel routes cannot be done without hardship or excessive increase in travel by the public.

Where single-lane bypasses are provided the subdivider shall furnish signalmen to control traffic operations and minimize delays.

The subdivider shall provide, erect, and maintain adequate barricades, warning signs, and lights at all excavations, closures, detours, points of danger, and uncompleted pavement.

B. ROADWAY CONSTRUCTION

1. Stripping, Stockpiling, and Placing Topsoil

All topsoil shall be stripped within the street right-of-way and from any other area designated by the enforcing officer. Topsoil shall be stored in stockpiles. All organic matter within the right-of-way shall be stripped and disposed of unless directed otherwise by the enforcing officer.

A two (2) or three (3) inch layer of topsoil shall be placed where seeding is required or where required by the enforcing officer.

After the stockpiled topsoil has been placed as specified above, the area where the topsoil was stockpiled shall be neatly graded and dressed.

2. Excavation

Excavation shall conform to limits indicated on the plans. Excavation materials shall be removed in such manner that the slopes can be neatly trimmed. Excavation shall not be made below grade except where rock or stone masonry is encountered or undercutting of unstable materials is required. Materials removed below grade shall be replaced with approved materials thoroughly compacted. Where borrow materials are required to complete embankments or fills the subdivider shall be responsible for providing them.

Rock excavation shall be removed to a minimum depth of twelve (12) inches below the subgrade and backfilled with approved materials which shall be thoroughly compacted.

Where a spring or seepage water is encountered that is not provided for on drainage plans it shall be reported to the enforcing officer.

3. Fills and Embankments

Embankment and fill materials shall be free from frost, stumps, trees, roots, sod, or muck. Only materials from excavation or borrow pits, or other materials approved by the enforcing officer shall be used. Materials shall not be placed on frozen ground.

Where excavated materials are used in fill construction and the materials consist of earth and various grades of rock, the fills shall be carefully constructed with the larger or hard rock on the bottom followed by the smaller or soft rock and finally the earth fill to provide a well-compacted and void-free embankment.

All depressions or holes below the natural ground surface, whether caused by grubbing, rock removal, undercutting, or otherwise, shall be filled with suitable materials and compacted to ground surface before fill construction is started.

Backfilling around a structure shall have been completed and thoroughly compacted to ground surface before any embankment materials are placed thereon.

Embankments shall be so constructed that adequate surface drainage will be provided at all times.

Fill areas shall be compacted by a sheep's foot roller, to a density of not less than ninety-five (95) percent of optimum density and each lift of fill materials shall be rolled until the roller "walk out".

The finished grade shall be test rolled with a truck to be selected by the enforcing officer. Any areas found to be soft or "pumping" shall be cut out and replaced with suitable materials in lifts, each lift shall be compacted until the excavation has been brought back to finish grade.

Fill materials shall be placed in eight (8) inch lifts, maximum thickness. Where excavated materials consist mainly of rock too large to be placed in the normal eight (8) inch thickness without crushing or further breaking down the pieces, such materials shall be placed in the fill in layers not exceeding three (3) feet in depth. No rock larger than eighteen (18) inches in dimension shall be placed in fill. Care shall be taken to fill all voids between large rock and to assure that fill materials are compacted such that settling is minimized. Compaction of the top six (6) inches of cuts or fills shall be accomplished with pneumatic-tire rollers.

Backfill around structures shall be of crushed stone or earth meeting the approval of the enforcing officer; and the fill shall be placed and compacted in eight (8) inch lifts and brought up evenly on all sides of the structure.

4. Undercutting

This work shall consist of the removal and disposal of unsatisfactory materials below grade in cut sections or areas upon which embankments are to be placed. It shall also include undercutting for pipes and box culverts where required.

Known areas to be undercut shall be designated on the materials approved by the enforcing officer. The backfill materials shall be placed in eight (8) inch lifts and compacted as specified for fill construction.

Disposal of unsatisfactory materials shall be approved by the enforcing officer.

5. Subgrade Construction and Preparation

The subgrade shall be prepared in reasonably close conformity with the lines and grades as shown on the plans.

Grading of subgrade shall be performed in such manner as to provide ready drainage of water. Ditches and drains shall be maintained to provide proper drainage during construction.

Hauling over finished subgrade shall be limited to that which is essential for construction purposes, and all ruts or rough places that develop in a completed subgrade shall be smoothed and recompact. Soft areas shall be removed and replaced with crushed stone or as directed by the enforcing officer or the Local Government Engineer.

The subgrade shall have a six-inch crown at the roadway centerline, or as otherwise specified by the city engineer.

The subgrade must be compacted to at least 95% of its maximum dry density as determined by ASTM-D-698 (Standard Proctor).

The subgrade shall be approved by the enforcing officer or Towns' Local Government Engineer for adherence to the plans before any base materials are placed.

6. Shoulders and Slopes

All shoulders and slopes shall be trimmed and shaped to conform with the cross sections shown on the plans and as specified in Section C-3, below. Rock cuts shall be sealed of all loose fragments, projecting points, etc., so as to leave a clean and neat appearance. Shoulders shall be completed where required as shown on the plans and shall be double bituminous surface treated, with care being taken to protect the surface and edges of pavement. Shoulder materials shall be placed in uniform layers and compacted by overlapped rolling of both base course and pavement. The finished shoulder shall be firm against the pavement.

C. BASE AND PAVING

1. Base Stone

The base course of stone shall be placed and compacted in layers or lifts upon the prepared subgrade to a finish thickness as described and shown on the plans. No single layer or lift shall exceed four (4) inches in depth.

The base course shall be a pugmill mix of mineral aggregate conforming to the technical specifications set forth in Section 303, Standard Specifications*. The aggregate base shall not be spread on a subgrade that is frozen or that contains frost. The base shall be placed and spread in uniform layers or lifts without segregation of size; each layer shall be compacted to a thickness no greater than four (4) inches. The stone shall be mixed with graders or other equipment until a uniform mixture is obtained. Each layer shall be compacted by rolling with alternate blading until a smooth, even, and uniformly compacted finish is obtained. (See Drawing A-7 in Appendix A).

The base stone shall be graded and rolled while it is still moist from the pugmill mix. If the enforcing officer determines that the mix is too dry, water shall be added with a distributor tank truck while the stone is being graded and rolled. Compaction shall be uniform for the entire width of the roadway until a density of eighty (80) percent of the solid volume has been achieved. Placement and compaction of each layer shall be approved by the enforcing officer before materials for the next successive layer are placed.

No pavement shall be placed until the stone base has been approved by the enforcing officer.

2. Prime Coat

After the base stone has been prepared as outlined above, a bituminous prime coat shall be applied uniformly over the surface of the base by the use of an approved bituminous distributor. The prime coat shall be applied at the rate of the three-tenths (3/10) gallon per square yard, using Grade RC-70 or RC-250, or refined tar Grade RT-2, RT-3, or emulsified asphalt, Grade AE-P. If, after the bituminous materials have been applied, they fail to penetrate before the time that the roadway is to be used by traffic, dry cover materials shall be spread at a rate established by the enforcing officer, (between eight (8) and twelve (12) pounds per square yard) to prevent damage to the primed surface. An excess of cover materials shall be avoided. No succeeding state of construction shall be placed upon the prime coat until it has properly cured. Aggregate for cover materials shall be Size No. 78 or 8.

* Please note that whenever Standard Specifications are referred to herein this refers to Standard Specifications for Road and Bridge Construction, Tennessee Department of Transportation, Bureau of Highways, Nashville, Tennessee, March 1, 1981, and subsequent revisions and additions.

In addition to these general requirements, unless otherwise stipulated, all materials and methods of installation shall conform to the technical specifications set forth in Section 402, Standard Specifications.

3. Tack Coat

A tack coat shall be applied to old or existing pavement surface or to a previously prepared base or surface to provide bond for an overlaid course. The tack coat shall be applied at the rate of one-tenth (1/10) gallon per square yard using materials and methods of installation set forth in Section 403, Standard Specifications.

4. Base Course

Upon completion of the prime coat, and asphaltic concrete base (hot mix) course shall be applied. The base course shall be the thickness shown on the detail sheet and as specified in the subdivision regulations. All materials and methods of installation shall conform to the technical specification set forth in Section 307, Standard Specifications for asphaltic concrete base. The asphaltic base shall be constructed of Grade C materials described in Section 307.03, Standard Specifications.

5. Wearing Surface

The wearing surface shall be applied upon the asphaltic base course after the application of the tack coat. The wearing surface shall be the thickness shown on the detail sheet and as specified in the Subdivision Regulations. All materials and methods of installation shall conform to the technical specifications set forth in Section 411, Standard Specifications for asphaltic concrete surface. The wearing surface shall be constructed of Grade D or E materials described in Section 903.11, Standard Specifications, and shall utilize asphaltic cement Grade RT-4 or 5, or TRCB-5 or 6, as set forth in Section 904, Standard Specifications. The wearing surface shall not be installed until at least seventy-five (75) percent of the buildings (residences, commercial buildings, etc.) associated with this subdivision are complete. The town shall be notified of the intent to install the wearing surface at least forty-eight (48) hours prior to the beginning work.

6. Shoulders

Shoulder construction shall be completed by bleeding, moistening as necessary, and by thoroughly compacting. The shoulders shall be the width and thickness shown on the typical section as required herein and covered with a double bituminous surface treatment. The surface shall be prepared as directed in advance of the surface construction. Upon completion of the prime coat, a double bituminous surface treatment shall be applied with the first course being at a rate of between 0.38 and 0.42 gallons per square yard. If the width of application is wider than the distributor, each width of spread shall not be less than one-half (1/2) the

surface to be treated. Areas inaccessible to the distributor shall be treated either with hand sprays or pouring pots. Immediately after each application of bituminous materials has been made, it shall be covered uniformly with Size No. 6, mineral aggregate. The aggregate shall be spread at a rate of between thirty (30) and forty (40) pounds per square yard. This first application shall be allowed to cure for a length of time to be determined by the enforcing officer before the second application is begun.

The second application of bituminous materials shall be applied in the same manner as the first application, at a uniform rate between 0.30 and 0.35 gallons per square yard. Mineral aggregate, Size No. 7, shall then be spread in the same manner as for the first spread at a rate between twenty (20) and twenty-five (25) pounds per square yard.

Immediately after each spread of cover aggregate, uniform coverage shall be achieved by hand brooming. Additional aggregate shall be placed by hand on thin or bare areas.

Immediately after spreading and brooming the cover aggregate, the entire surface shall be rolled, beginning at the edges and progressing to the edge of the pavement. Rolling shall begin within thirty (30) minutes after the aggregate has been spread. The same rolling and curing procedures required in making the first application shall be repeated in making the second application.

In addition to these general requirements, unless otherwise stipulated, all materials and methods of installation shall conform to the technical specifications set forth in Section 404, Standard Specifications.

D. DRAINAGE SYSTEM DESIGN

1. Ditching and Channelization

This work shall consist of the construction of ditches adjacent to roadway shoulders and feeding to and from culverts under or adjacent to the roadway. All drainage ditches shall be graded in their entirety during the time the roadways are being graded and such grading shall be completed prior to final inspection of the roadways.

2. Stabilization of Ditches

All open ditches shall be stabilized in accordance with the following requirements:

Size of Nearest Culvert (Upstream)	Seeding Required	Sod Required	To be Concrete Lined
	Grades	Grades	Grades
Exceeding 15"	1.00%-3.00% Grades	3.00%-12.00% Grades	12.00% Grades
Exceeding 18" thru 24"	1.00%-1.50% Grades	1.50%-7.00% Grades	7.00% Grades
Exceeding 30" thru 36"	1.00%-1.50% Grades	1.00%-4.00% Grades	4.00% Grades
Exceeding 42" thru 72"		2.50% or Less	2.50%

3. Concrete Ditch Paving

Concrete ditch paving shall consist of the construction of paved ditches on a prepared subgrade. The subgrade shall be shaped and compacted to a firm even surface. All soft materials shall be removed and replaced with acceptable materials and shall be compacted as directed by the enforcing officer.

Concrete ditch pavement shall be four (4) inches in thickness throughout and shall be backfilled immediately after the concrete has set and the forms have been removed. The backfilled materials shall be thoroughly compacted. Expansion joints shall be located as directed by the enforcing officer.

4. Culverts and Storm Drains

This work shall consist of the construction of pipe culverts and storm sewers as shown on the plans.

Driveway culverts shall be a minimum diameter of fifteen (15) inches and a minimum length of sixteen (16) feet; cross drains shall be a minimum diameter of eighteen (18) inches.

Reinforced concrete pipes shall conform to minimum standards for Class III, Reinforced Pipes, A.S.T.M. C76. Corrugated metal pipes shall conform to Section 915.02 or 915.04, Standard Specifications and to gage as follows:

Rounded Corrugated Metal Pipes	
Size	Gage
15" - 24"	16
30"	14
36" - 48"	12
54" - 72"	10
78" - 84"	8
Arch Corrugated Metal Pipes	
Size	Gage
18" x 11" - 22" x 13"	16
25" x 16" - 36" x 22"	14
43" x 27" - 65" x 40"	12
72" x 44" or Larger	10

For pipes smaller than forty-eight (48) inches in diameter, a minimum cover of one (1) foot, exclusive of base and paving, is required from top of pipes to finished subgrade. A minimum cover of two (2) feet is required for pipes forty-eight (48) inches in diameter and larger. All pipes shall be built on straight line and grade and shall be laid with the spigot end pointing in the direction of the flow, with the ends fitted and matched to provide tight joints and smooth uniform invert.

Pipes shall be bedded on a six (6) inch thickness of Class B materials and backfilled to a depth of thirty (30) percent of the diameter of the pipes. Recesses shall be dug in the bedding materials to accommodate the bell. Class B bedding shall be Size No. 7, as shown in Chart No. 903.23, Standard Specifications. Culverts and storm drains in existing roadways shall be backfilled to the depth of the cut.

5. Headwalls

Concrete headwalls shall be constructed at both ends of cross drains as shown and detailed on the standard drawings included herein.

6. Catchbasins

This work shall consist of constructing catchbasins complete with inlets, outlets, and inverts. Tops and inlets shall be constructed to conform to the roadway grade so that drainage can easily be caught and no ponding created. Catchbasins shall be constructed as shown and detailed on the standard drawings contained herein.

7. Box Culverts and Bridges

Design of box culverts and bridges shall be submitted to the enforcing officer for approval before any construction is permitted.

8. Roadside Ditches

Roadside ditches, in conventional sections, shall be built to a grade that will permit good drainage, and in no case shall the slope of the ditch be less than one percent (a fall of 1.00 foot in 100 feet). All drainage ditches shall be stabilized to prevent erosion as indicated in these specifications.

9. Changes in Water Channels

Where the subdivider rechannelizes water through a subdivision he will be responsible for replacing cross drains under public streets, as directed by the enforcing officer. This work shall be done at the expense of the subdivider.

E. FINAL, DRESSING, SEEDING, AND SODDING

1. Final Dressing

This work shall consist of dressing all slopes and areas to within reasonable close conformity to the lines and grades indicated on the plans, or as directed by the enforcing officer. Final dressing shall be performed by hand or machine to produce a uniform finish to all parts of the roadway including embankments, ditches, etc. Rock cuts shall be cleaned of all loose fragments; side slopes shall be laid back to a three to one (3:1) slope and seeded as described in these specifications.

The entire right-of-way shall be cleaned of all weeds and brush and all structures both old and new shall be cleared of all brush, rubbish, sediment, or other objectionable materials.

2. Seeding

In all areas damaged or disturbed by the construction operation where established ground cover was present before beginning of construction, the subdivider shall be responsible for restoring the ground cover after completion of construction, unless noted otherwise on drawings. All

areas seeded shall be graded smooth prior to seeding and the subdivider shall be responsible for maintenance of the smooth finished grade until grass is established.

After designated areas have been carefully hand graded, soil shall be prepared for fertilizing and seeding. Fertilizer shall be a standard commercial fertilizer Grade 15-15-15 or equivalent, and shall be applied at a rate of not less than ten (10) pounds per one thousand (1,000) square feet. The fertilizer shall be lightly harrowed, raked, or otherwise incorporated into the soil for a depth of approximately one half (1/2) inch. The subdivider shall be responsible for any regrading or reseeding required to produce an acceptable grass cover. Rutting and washing shall be restored by reseeding and strawing; in areas of extreme erosion sodding may be required.

The seed shall be as follows:

<u>Name</u>	<u>Percent by Weight</u>
Lespedeza	20
Sericea Lespedeza	15
Kentucky 31 Fescue	40
English Rye	15
White Dutch Clover	5
Weeping Love Grass	5
Kentucky 31 Fescue	55
Redtop	15
English Rye	20
White Dutch Clover	5
Weeping Love Grass	5

The seed shall be sown uniformly at the rate of one and one-half (1 1/2) pounds per one thousand (1,000) square feet.

3. Sodding

Sodding shall consist of furnishing and placing sod at all locations shown on the plans, or as directed by the enforcing officer. Work shall include the furnishing and placing of new sod, consisting of live, dense, well-rooted growth of permanent grasses free from johnson grass and other obnoxious grasses or weeds, well suited for the soil on which it is placed. All sod shall be cleanly cut in strips having a uniform thickness of not less than two and one-half (2 1/2) inches. Sod shall be set when the soil is moist and favorable to growth. No setting shall be done between October 1 and April 1, without permission of the enforcing officer. The area to be sodded shall be brought to the lines and grades shown on the plans, or as directed by the enforcing officer.

The surface of the ground to be sodded shall be loosened to a depth of not less than one (1) inch with a rake or other device. If necessary, it shall be sprinkled until saturated for a minimum depth of one (1) inch and kept moist until the sod is placed. Immediately before placing the sod, fertilizer and lime shall be applied uniformly to the prepared surface of the ground. Fertilizer shall be applied at the rate of eight (8) pounds of Grade 15-15-15, or equivalent, per one thousand (1,000) square feet.

Sod shall be placed as soon as practical after removal from the point of origin, it shall be kept in a moist condition during the interim. Sod shall be carefully placed by hand on the prepared ground surface with the edges in close contact and, as far as possible, in a position to break joints. Each strip of sod laid shall be fitted into place and tamped. Immediately after placing, the sod shall be thoroughly wetted and rolled with an approved roller. On slopes of two to one (2:1) or steeper, pinning or pegging may be required to hold the sod in place.

The sod shall be watered for a period of two (2) weeks. The subdivider shall not permit any equipment or materials to be placed on any planted area and shall erect suitable barricades and guards to prevent equipment, labor, or the public from traveling on or over any area planted with sod.

APPENDIX B
FORMS OF PERFORMANCE BONDS

FORM NO. 1

FORMS OF PERFORMANCE BONDS

WESTMORELAND MUNICIPAL PLANNING COMMISSION

KNOW ALL MEN BY THESE PRESENTS, That We, _____,
as Principals, _____, State of _____,
and the _____ INSURANCE COMPANY, a
_____ Corporation authorized to do
business in the State of Tennessee, having an office and place of business at
_____, as Surety, are held and firmly bound unto
the City/County of _____ as obligee, in the sum of
_____ Dollars (\$ _____) lawful money
of the United States, for the payment whereof to the Obligee, the Principal and the
Surety bind themselves, their heirs, executors, administrators, successors, and
assigns, jointly and severally, firmly to these presents:

WHEREAS, application was made to the Westmoreland Planning Commission for
approval of a subdivision shown on plat entitled "_____
_____, filed with the planning commission
chairman of the Town of Westmoreland on _____ 20 _____,
said final plat being approved by the Westmoreland Planning Commission upon
certain conditions, one of which is that a performance bond amount of
_____ DOLLARS (\$ _____) is to
be filed with the planning commission and accepted by the Town of
Westmoreland, upon the recommendation of the planning commission, guarantee
certain improvements as cited hereafter in the subdivision named above.

WHEREAS, there are approximately _____ feet in length and _____
feet in width in said streets and curbs, and _____ feet of inch water line,
and _____ feet of _____ inch sewer line, and other
improvements as follows _____, not yet completed, and
that the total cost of providing these facilities would be as follows:

A.	Street and Curbs	\$ _____
B.	Water Lines	\$ _____
C.	Sewer Lines	\$ _____
D.	Other	\$ _____
	TOTAL	\$ _____

Performance Bond
Page 2

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the above named principal shall within one (1) year from the date hereof (time may be extended for one (1) year only beyond this period by the local governing body upon the recommendation of the Planning Commission with the consent of the parties) will and truly make and perform the required improvements and construction of public improvements in said subdivision in accordance with the local government specifications and the Resolution of _____, 20____, then this obligation is to be void; otherwise to remain in full force and effect.

It is hereby understood and agreed that in the event that any required improvements have not been installed as provided by said resolution, within the term of this performance bond, the governing body may thereupon declare this bond to be in default and collect the sum remaining payable thereunder, and upon receipt of the proceeds thereof, the local government shall install such improvements as covered by this bond and commensurate with the extent of building development that has taken place in the subdivision but not exceeding the amount of such proceeds.

Principal

Principal

Insurance Company

BY

Attorney-in-Fact

BOND NO. _____

ACKNOWLEDGMENT:
COPARTNERSHIP

STATE OF TENNESSEE

(COUNTY OF _____) SS.:

On this ____ day of _____, 20____, before me personally appeared _____, to me known and known to me to be one of the firm of _____, described in and who executed the foregoing instrument, and he thereupon acknowledged to me that he executed such instrument as and for the act and deed of said firm.

INDIVIDUAL

STATE OF TENNESSEE

COUNTY OF _____) SS.:

On this ____ day of _____, 20____, before me personally appeared _____, to me known and known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same.

CORPORATE

STATE OF TENNESSEE

(COUNTY OF _____) SS.:

On this ____ day of _____, 20____, before me personally appeared _____, to me known, who, being by me first duly sworn, did depose and say that he resides in _____; that he is the _____ of _____, corporation described in and which executed the foregoing instrument; that he knows the corporate seal of said corporation; that the corporate seal affixed to said instrument is such corporate seal; that it was so affixed by order and authority of the Board of Directors of said corporation, and that he signed his name thereto by like order and authority.

FORM NO. 2

IRREVOCABLE DOCUMENTARY LETTER OF CREDIT
WESTMORELAND MUNICIPAL PLANNING COMMISSION

1. DATE OF ISSUE _____
2. CREDIT NO. OF ISSUING BANK _____
3. CREDIT NO. OF ADVISING BANK _____
4. ADVISING BANK _____
5. ACCOUNTEE _____
6. BENEFICIARY, MAIL TO _____
7. LATEST PERFORMANCE DATE _____
8. LATEST DATE FOR NEGOTIATION _____
9. MAXIMUM AMOUNT _____
10. SPECIFIC IMPROVEMENTS INCLUDED IN MAXIMUM AMOUNT:

There are approximately _____ feet in length and _____ feet in width in said streets and curbs, and _____ feet of inch water line, and _____ feet of _____ inch sewer line, and other improvements as follows _____, not yet completed, and that the total cost of providing these facilities would be as follows:

A.	Street and Curbs	\$ _____
B.	Water Lines	\$ _____
C.	Sewer Lines	\$ _____
D.	Other	\$ _____
	TOTAL	\$ _____

11. We hereby issue this documentary letter of credit in your (the beneficiary's) favor which is available against your drafts at _____ drawn on _____ Bank, "Credit No. _____" accompanied by the following document: A Certificate of Default signed under oath by the Chairman of the Westmoreland Municipal Planning Commission and the chief executive of the city government (being the Town of Westmoreland, certifying that the Accountee has not complied with the terms of the agreement between the Planning Commission and the Accountee and the amount of approximate damage to the county government, which amount shall be identical to the face amount of the accompanying draft.

12. SPECIAL CONDITIONS

We hereby engage with the bona-fide holders of all drafts or documents presented under and in compliance with the terms of this Letter of Credit that such drafts or documents will be duly honored upon presentation to us. The amount of each drawing must be endorsed on the reverse of this letter of credit by the negotiating bank.

The advising bank is requested to advise this letter of credit without engagement of their part.

Bank

Authorized Signature, Issuing Bank

Authorized Signature, Issuing Bank